Nos. 98-405 and 98-406

In the Supreme Court of the United States

OCTOBER TERM, 1998

JANET RENO, ATTORNEY GENERAL, APPELLANT

v.

BOSSIER PARISH SCHOOL BOARD

GEORGE PRICE, ET AL., APPELLANTS

v.

BOSSIER PARISH SCHOOL BOARD

ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

JOINT APPENDIX (VOLUME 2)

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NOTICES OF APPEAL FILED: July 6, 1998
PROBABLE JURISDICTION NOTED: January 22, 1999

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August 10, 1993

Mr. Barry Musgrove, President
Bossier Parish School Board

Mr. W.T. Lewis, Superintendent
Bossier Parish School System

This informal response is provided to you as a follow-up to our presentation on July 15, 1993.

The Executive Committee of the Bossier Parish Branch N.A.A.C.P. and other organizational leaders met on July 20, 1993 to discuss the best method of providing recommendations to you that we feel will improve certain areas of our school system. We hope the recommendations contained herein will assist you, Superintendent Lewis, and other School Board members in formulating solutions to our concerns.

Members of our community stand ready and willing to do whatever we can to impact the concerns raised by our community.

Sincerely,

/s/ GEORGE S. PRICE
GEORGE S. PRICE
President
Bossier Parish Branch N.A.A.C.P.

The Coalition of Bossier Parish

Concerned Citizens of Bossier Parish, Men's Club, Concerned Citizens of Plain Dealing, Bossier Parish Branch N.A.A.C.P.

Suggested Solutions To Concerns

Mr. Barry Musgrove, President, Bossier Parish School Board
Mr. W.T. Lewis, Superintendent, Bossier Parish School System

This informational response is provided to you as a follow-up to our presentation on July 15, 1993.

The Executive Committee of the Bossier Parish Branch N.A.A.C.P. and other organizational leaders met on July 20, 1993 to discuss the best method of providing recommendations to you that we feel will improve certain areas of our school system. We hope the recommendations contained herein will assist you, Superintendent Lewis, and other School Board members in formulating solutions to our concerns.

Members of our community stand ready and wiling to do whatever we can do to impact the concerns raised by our community.

Suggested Solutions:

1. The Educational Committee of the Bossier Parish Branch N.A.A.C.P. will be responsible for providing input to the School Board and the Superintendent on minority matters. The Committee will also serve as the communication vehicle between our organization and the Bossier Parish School System. The Committee will

provide its finding and receive support from the Branch President.

2. The issue of teacher recruitment concerns us greatly. We strongly feel that additional efforts can result in the placement of additional minority teachers into the Bossier Parish System. The following steps may help.

    a. Expand the area of recruitment to include the entire state of Louisiana, East Texas and Southern Arkansas.

    b. Monitor each school for minority hiring.

    c. Set pre-hiring standards and goals for each school. Additionally, require schools to reflect a more accurate percentage of teacher to student ratio according to race.

    d. Place qualified applicants in schools according to need. Do not leave placement (acceptance or rejection) solely to the discretion of the Principles [*sic*].

    e. Add community professionals to the recruitment team and give the team the authority to make a commitment for employment to qualified candidates while on recruitment trips.

    f. Tap high achievers (High School Seniors) and provide financial assistance to them to include a contractual agreement for employment upon successful completion of all requirement [*sic*] (similar to the South Carolina Plan).

g. Insure compliance with the 1970 consent decree show [*sic*] 75/25 hiring ratio until requirements are met. Currently, we're not in compliance.

3. Student performance in the area of math/science can be improved. We feel that the following steps wil[l] help.

   a. Establish an extended school program that will encounter those students who are not achieving at a satisfactory level or working below grade level. To include a summer program if necessary.

   b. When available, add black counselors to schools with high minority populations. This will help improve communication between teachers and students. This may also effect the number of behavior problems that we now have.

   c. Hire an administrative field representative that is knowledgeable in curriculum to address student progress parish wide with the added responsibility to make recommendations to the Bossier Parish School Board and the Superintendent on ways to improve the levels of student achievement.

4. As you know, race relations in our schools are not very good. We still have segregation within an integrated environment. Based on my knowledge, I recommend you establish a Race Relations Program for the Bossier Parish School System.

5. Set as a School Board agenda goal to end attendance certificates and social promotions.

    a. Integrate a vocational program into the system that will benefit those students who are receiving a 12 year certificate of attendance. Thereby resulting in them receiving some type of skill that is in demand.

    b. The afore mentioned number, 3a, will correct these deficiencies.

6. Special education programs must be given greater priority. Once the number of students in such programs continue to increase, valid programs must be instituted to meet the needs of these students (see 5A). Resources and priorities must be changed to meet these challenges.

7. Junior High School is considered an educational Bonanza for our students. During these years, role models and peers take on added importance. Because of the unquestionable importance of Junior High School. We urge the Board and Superintendent Lewis to upgrade the proposed coordinator positions at Rusheon and Princeton Junior High Schools to Assistant Principle [*sic*] positions and fill them with black administrators. There are no black administrators at the Junior High level in the Bossier Parish School system.

8. The original criteria set for the Achievement Center at Butler School has apparently changed. Can anyone define the purpose of the Achievement Center in relations to its original plans.

What do[es] the Bossier Parish School system offer at-risk students?

Summary:

Semi-annual reports indicate that the Bossier Parish School System is functioning according to the guidelines laid down in the consent decree of 1970. However, a study of these reports that go back to 1970 indicate otherwise. Since 1970, we have seen a steady decline in the number of black teachers and administrators in the Bossier Parish System while the number of black students continue to increase. We have also noted that the number of white teachers and administrators have continued to increase while the white student population have declined.

Based on the information contained in your reports. Black teachers has declined in our system by more than 43% down from 186 in 1971 to 107 in 1992 while white teachers increased by more than 48% up from 695 in 1971 to 1029 in 1992.

Student population has not kept pace with these figures, in fact, student population figures are exactly opposite. For example, in 1971, black students made up 22% of the student body while whites accounted for 77%. In 1992 blacks comprised more than 28% of the student body while whites declined to 70% down, more than 8%. This data shows an overall increase of over 6% for blacks and a decrease of 8% for whites.

Accordingly, we feel a similar trend should be reflected in the number of teachers and adminis-

trators. However, the opposite has happen. We call upon the Bossier Parish School Board and School System to take immediate steps to reverse these trends.

Thank you,

/s/ GEORGE S. PRICE
GEORGE S. PRICE
President
Bossier Parish Branch N.A.A.C.P.

Excerpts from Appellant-Intervenors Exhibit E (Final Direct Testimony of Appellant-Intervenor Thelma Harry dated April 9, 1995)

* * * * *

[7]

* * * * *

16. On several occasions in recent years, the NAACP has presented the School Board with a list of concerns about the operation of the school system. These lists have been developed from meetings of the executive committee of the NAACP where we tried to take all of the many complaints we had received about the school system and put them into categories. Most of these lists have contained the same problems over and over as no action ever seems to be taken to solve the problems. After one time when we presented them with a list of some of our complaints, the School Board set up a Community Affairs Advisory Council in early 1993. This was to be a committee of six people selected by the NAACP and six people selected by the School Board. I was one of the representatives selected by the NAACP. There were two preliminary meetings to establish the Council and its membership. Then regular meetings were to be held monthly. After only one regular meeting, we received a letter, dated March 16, 1993, stating that the School Board had canceled the Council. A copy of the letter that I received from the School Board announcing the disbanding of the committee is attached as Defendant-Intervenors' Exhibit 17. We were also told that the Council had to be canceled because there was already a Bi-Racial Committee established by the consent decree from the school

desegregation suit and this one would be illegal. We were angered and disappointed at the cancellation of the Council, but we were not really surprised as it seems that the School Board and school system do not really want to deal with the problems that face the black students and parents. Many of us had no knowledge that there was any such Bi-Racial Committee in existence with which the Council could have conflicted. Then we found out that the annual reports which the School Board had been sending to the Court and the Department of Justice left the impression that the original Bi-Racial Committee was still functioning when in fact it had not met in years. This made the leadership and membership of the NAACP and other groups very disappointed and angry.

* * * * *

Excerpts from Appellant-Intervenors Exhibit E (Supplemental Testimony of Appellant-Intervenor Thelma Harry dated April 9, 1995)

* * * * *

19. After one of the meetings of a group of NAACP members and a few school board members in 1993 (see paragraph 17 of the Final Direct Testimony of Thelma Harry), Mr. George Price and I had a conversation with Mr. Tom Myrick. Things in the meeting itself had been somewhat on edge because it was clear that the representatives of the black community were not going to be satisfied by more promises to look into problems, but wanted concrete steps taken to solve the problems. During this meeting, one of the issues we had raised was the fact that the Plain Dealing High School was the only high school in the parish that did not get any money for computer purchases from a program called BEEF. Plain Dealing is in the northern part of the Parish in Mr. Myrick's district. It is the only majority black high school in the parish. After the meeting, Mr. Myrick complained that we were always trying to take his seat and stated that he was not going to let us take it away from him.

* * * * *

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 94-1495
(LHS (USCA), CRR, GK)

BOSSIER PARISH SCHOOL BOARD, *PLAINTIFF*

versus

JANET RENO, *DEFENDANT*

GEORGE PRICE, ET. AL, *DEFENDANT INTERVENORS*

DIRECT TESTIMONY OF
DAVID CREED

---

1. My name is David Arnold Creed. I am the Director of North Delta Regional Planning & Development ("North Delta") in Monroe, Louisiana. I have held this position for 14 years.

2. North Delta provides technical assistance and demographic advice to governmental bodies throughout the northeastern Louisiana region.

3. One of the services we provide is consultation concerning, and the development of, reapportionment plans. We draw redistricting maps and precinct maps for school boards, parishes, and municipal governments in Louisiana. In addition, I testified in the lawsuit of *Knight v. McKeithen*, No. 94-848-A. 2 (M.D. La. August 19, 1994), on behalf of the defendant East Carroll School Board.

4. As a result of our redistricting work I am familiar with the requirements of both federal and state law concerning reapportionment in Louisiana. In particular, I am familiar with the preclearance requirements Section 5 of the Voting Rights Act and with Act 925, the Louisiana Statute limiting the ability of local school boards to alter precinct lines.

5. Over the past two years, I have worked with several governmental entities on reapportionment projects which have involved potential conflicts between the Voting Rights Act and the precinct-splitting law. In none of these situations have the limitations on a school board's ability to split precincts prevented the adoption of a redistricting plan that met the requirements of Section 5.

6. For example, we worked with the West Carroll Parish School Board in developing its redistricting plan. West Carroll was unable to develop a reapportionment plan which met the requirements of the Voting Rights Act without splitting some precinct lines. However, after the Department of Justice precleared West Carroll's plan it was able to satisfy state law requirements by having the West Carroll Police Jury, the parish governing body, alter existing precinct lines.

7. Likewise, we worked with the Franklin Parish School Board, whose situation was similar. Franklin needed to split precincts to satisfy Section 5 requirements. We helped the Franklin Parish School Board develop new precinct maps and descriptions which it submitted to its police jury for approval.

8. In both West Carroll and Franklin Parish, the school boards paid the police juries' costs in establish-

ing new precinct lines, which amounted to one or two thousand dollars in each case. Once the school boards agreed to cover these costs, the police juries expressed no further reservations about adopting the precinct changes necessary for the school boards to implement election plans in compliance with federal law.

9. We also worked with the Ouachita Parish Police Jury and Registrar of Voters in drawing and describing new precincts for used [*sic*] by the Monroe School Board, a metropolitan district within Ouachita Parish.

10. Although municipal governments in Louisiana, as opposed to school boards, are not governed by the restrictions of Act 925, they also frequently have to rely on parish governing bodies, usually the parish policy [*sic*] juries, to alter precinct lines. For example, many small municipalities with single member districts have more seats in municipal elections than there are regular precincts within the borders of the municipality. This is another occasion in which police juries are frequently called upon to "split" precincts.

11. Such precinct-splitting raises few practical difficulties. To establish new precincts requires new maps, legal descriptions, and a resolution by the parish governing body. To implement them requires new polling places, or more simply the use of lockouts or additional machines at existing polling places. These efforts were the principal sources of the costs identified in paragraph 8 in West Carroll and Franklin Parishes.

12. Police juries and school boards in Louisiana also frequently adopt different single-member election districts. For example, five or six of the 11 parishes in

my planning district have different election plans for school board and policy [*sic*] jury.

13. In sum, while I have observed several instances of apparent tension between the requirements of Section 5 of the Voting Rights Act and Louisiana's precinct-splitting statute, this tension has been fairly easily resolved by several school boards with which I am familiar.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 16th day of February, 1995 in the City of Monroe in the Parish of Ouachita, State of Louisiana.

/s/ DAVID ARNOLD CREED
DAVID ARNOLD CREED

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 94-1495
(LHS (USCA), CRR, GK)

BOSSIER PARISH SCHOOL BOARD, *PLAINTIFF*

versus

JANET RENO, *DEFENDANT*

GEORGE PRICE, ET AL, *DEFENDANT INTERVENORS*

SUPPLEMENTAL TESTIMONY OF
DAVID CREED

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14. I heard Mr. Joiner testify that he informs school boards of all of their redistricting options. I also do the same. This includes informing them about Act 925, the Louisiana statute limiting precinct splits by school boards. In helping to prepare redistricting plans based on the 1990 census, I also informed school boards that one of their options was to adopt a plan splitting precincts and ask the police jury to establish the necessary new precincts. I also informed them that if they adopted a plan with a number of seats different than the police jury, that they had the ability themselves to establish some new precincts prior to December 31, 1992.

15. In addition, I informed school boards about the Voting Rights Act, including the possibility that its requirements may conflict with Act 925. I informed

clients that in such a situation federal law prevails and claiming that they are unable to split precincts is not a valid excuse. I would not consider myself to have done my job as a consultant if I had not informed them of this matter and others.

16. I heard Mr. Myrick and Mr. Musgrove say that they relied on Mr. Joiner's statement that they could not split precincts. In my experience, this would be unusual. Board members normally ask many questions, are nearly always concerned about incumbency, and usually direct me to prepare a plan different than what I originally recommend. This is also the case with my colleagues in the other Planning and Development Districts around the state of Louisiana. For example, when I initially told the West Carroll Parish School Board that they likely would need to have a black majority district, some individual board members told me that they did not wish to be "blamed" for this and that if they had to, it would be better if it were construed to be forced by the "federal government." As I testified in my original direct testimony, this happened.

17. I heard Mr. Joiner testify about his estimates of the cost of holding elections with additional precincts. In my view, his estimates represent total costs and not costs to the local school board. Furthermore, they represent a worst case scenario in terms of total costs because they:

(1) assume separate election commissioners and supervisors for every precinct;

(2) assume that lockouts could not be used; and

(3) assume that police juries would not reconsolidate precincts.

All of these assumptions are unlikely.

18. Mr. Joiner's rebuttal testimony misses the point of my direct testimony concerning municipal elections in Louisiana. That point is that police juries in virtually all sixty-four of Louisiana's parishes have to deal with precinct splitting by municipalities. While this splitting is not prohibited by state law, it still requires local government bodies to incur the same costs and inconveniences of precinct splitting that school boards do when they must ask police juries to split precincts.

19. I heard Mr. Joiner testify about his concern about precinct splitting. In my work, I am called upon to help governmental bodies develop precinct lines. Precincts are drawn largely based on geographical concerns rather than demographic characteristics of the population. They vary widely in the number of voters per precinct and are somewhat arbitrary.

20. I disagree with Mr. Joiner's definition of gerrymandering. To me there is a difference between attempting to draw a black majority district and racial gerrymandering. The difference is that gerrymandering involves drawing voting districts in a tortuous or convoluted way in order to render contiguous pockets of minority population that cannot be connected consistent with normally redistricting principles.

21. I recently was shown the Bossier Parish School Board's proposed redistricting plan and the illustrative plan developed by Bill Cooper without being told which was which. In my opinion, neither contains districts that appear to be gerrymandered. Furthermore, I

concluded that neither plan on the whole was any more "gerrymandered" in its appearance than the other. Both appeared to have districts that were sufficiently compact and contiguous.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 10th day of April 1995 in the Washington, D.C.

/s/ DAVID ARNOLD CREED
DAVID ARNOLD CREED

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 94-01495
(CRS) (LHS) (GK)

BOSSIER PARISH SCHOOL BOARD, PLAINTIFF

V.

JANET RENO, DEFENDANT
GEORGE PRICE, ET. AL, DEFENDANT INTERVENORS

FINAL DIRECT TESTIMONY OF
WILLIAM S. COOPER

Direct Testimony of William S. Cooper

1. I am William S. Cooper and I reside in Richmond, Virginia. I serve as a redistricting consultant for the defendant-intervenors in this lawsuit. I have a B.A. degree in Economics from Davidson College in Davidson, NC. In addition, I completed graduate courses in urban and regional planning at Virginia Polytechnic Institute and State University in Blacksburg, VA.

2. I have been employed since 1986 by the American Civil Liberties Union of Virginia, Inc., the Virginia affiliate of the American Civil Liberties Union, and the American Civil Liberties Union of Virginia Foundation, Inc.

3. Since 1986, I have prepared redistricting maps in approximately 325 jurisdictions for Section 2 litigation, Section 5 comment letters, and for use in other efforts

to promote compliance with the Voting Rights Act of 1965. I have prepared election plans for Section 2 litigation in Connecticut, Florida, Georgia, Louisiana, Maryland, Nebraska, Mississippi, North Carolina, Ohio, South Carolina, Virginia, and Tennessee.

4. The report I prepared for this case, entitled Report of Williams S. Cooper and its appendix provide further details regarding my experience as an expert witness and my qualifications relating to redistricting and geographic information system software. That report is attached to this testimony as Exhibit 13.

Bossier Parish Redistricting: Methodology and Sources

5. I am familiar with the manner in which census data is collected and compiled by the United States Bureau of the Census for use in redistricting.

6. I use the 1990 Bureau of the Census PL 94-171 data file for my redistricting work. The PL 94-171 file is the population file designed by the Bureau of Census primarily for use in reapportionment of state and local governments. The file contains basic data on the population and voting age population found in units of census geography such as states, counties, municipalities, precincts, census tracts, and census blocks. It breaks this data down among the major racial and ethnic groups is [*sic*] our society, containing information about the following population and voting age population categories: white, black, American Indian/Eskimo, Asian, Hispanic, and Other Minority.

7. I also use the Bureau of the Census TIGER (Topologically Integrated Geographic Encoding and Referencing) files. The TIGER files contain data

recording the longitude and latitude coordinates of the boundaries for all of the geographic units that were used in the 1990 census. Using geographic information system (GIS) software which was specially developed by a number of companies to use the TIGER files, it is possible to create digitized maps for display and analysis on computer screens of any state, county, or locale in the United States. The programs allow for the thematic display of any census data that one wishes to analyze.

8. *GisPlus*, the geographic information system software I used since 1991, converts the data in the TIGER file into an on-screen map. I use the *GisPlus* software on a 386-33DX IBM compatible personal computer.

9. With the *GisPlus* software and similar geographic information system software packages, voting plans can be developed using units of census geography from precincts down to census blocks. A census block is the smallest geographic tabulation area from the 1990 census. A block may be as small as a regular city block bounded by four streets, or as large as several square miles in a rural area. Census blocks are bounded on all sides by visible features such as streets, rivers, and railroad tracks or, occasionally, by nonobservable political boundaries such as municipal or township lines.

10. I have used the *GisPlus* software, together with the Census Bureau's PL 94-171 file and TIGER files, in all of the redistricting work I have conducted relating to the Bossier Parish School Board. All districts were drafted at the census-block level. I have also done analysis on a database for Bossier Parish constructed by Gary Joiner, the redistricting consultant for the School Board. This database was also constructed on

GisPlus, as Mr. Joiner also uses this program for some of his work.

Population and Geographic Characteristics of Bossier Parish

11. I have looked at the data for Bossier Parish found in the PL94-171 files and summarized the basic population characteristics of the parish. According to the 1990 census, Bossier Parish, Louisiana has a population of 86,088, with a black population of 17,381. Bossier Parish has a total voting age population of 60,904 and black voting age population of 10,784. African Americans comprise 20.2% of the total population and 17.7% of the voting age population in Bossier Parish. Throughout my testimony, the terms "black" and "African-American" are used interchangeably. Also, I make no distinction between Hispanic blacks and non-Hispanic blacks. According to the 1990 census, of the 17,381 blacks in Bossier Parish, 380 (2.19%) are Hispanic.

12. Using data from the GIS database, it is also possible to ascertain some of the basic physical features of Bossier Parish. The parish encompasses an area of 854.27 square miles. The Parish is bounded to the north by the state of Arkansas. The Red River runs along the western length of Bossier Parish, separating the Parish from neighboring Caddo Parish. Red River Parish lies to the south. Webster and Bienville Parishes are to the east. The Parish is 59 miles long from the extreme northwest to the extreme southeast.

13. The bulk of the black population of Bossier Parish is concentrated in Bossier City and in and adjacent to the Parish's three other municipalities—Benton, Plain Dealing, and Haughton. Bossier City has

the largest population of the four municipalities, with 52,721 residents, of who 9,521 (18.06%) are African-American. Thus, 54.78% of the African-Americans in Bossier Parish live in Bossier City. Benton has 2,047 residents, of whom, 849 (41.48%), are African-American. Plain Dealing has 1,074 residents, of whom 354 (32.96%) are African-American. Haughton has 1,664 residents, of whom 464 (27.88%) are African-American. The combined African-American population in all four municipalities is 11,188. Black residents in the four municipalities represent 64.37% of the parish-wide black population.

District Election Plan for the Bossier Parish School Board

14. In July, 1994, counsel for the defendant-intervenors asked me to determine whether it is feasible to develop district election plans for the 12-member Parish School Board, such that African-Americans would constitute a majority of the voting age population in one or more districts.

15. In response, I developed a plan for the Bossier Parish School Board with two majority-black voting age population districts. Maps describing this plan with summary population data are attached as Defendant-Intervenors' Exhibit 18. The plan is labeled "Plaintiffs' 12-district Plan", since it was prepared for testimony in *Knight v. McKeithen*, a case in which all of this case's intervening defendants were the plaintiffs.

16. Under the plan shown in Defendant-Intervenor's Exhibit 18, Districts 2 and 8 are majority-black. District 2 is entirely within Bossier City. District 2 has an African-American voting age population of 54.1%. District 8 is in the north and central portion of the Parish,

encompassing portions of Plain Deal and Benton. District 8 has a black voting age population of 58%.

17. The overall deviation for the plan is 8.85%. The plan complies with the guidelines governing redistricting, including but not limited to the principle of one person, one vote, the prohibition on diluting minority voting strength, and other factors such as contiguity and compactness. All of the plans and districts that I have created for Bossier Parish fall within + or -5% deviation, insuring conformance with the one-person, one-vote standards that apply to local governments. In comparison, the redistricting plan both adopted by the Bossier Parish Police Jury and submitted to the Department of Justice by the School Board has a total deviation in excess of 10%.

18. In drafting "Plaintiffs' 12-District Plan", I did not have access to information regarding the location of the residences of current School Board members. In addition, I was not provided with a map showing boundaries for the 13 new precincts that were created after the 1991 Police Jury redistricting in Bossier Parish.

19. Using the Census Bureau's TIGER files, I was able to identify the precinct boundaries for the 43 precincts (called voting tabulation districts by the Census Bureau) that existed prior to the 1991 redistricting of the Police Jury. I took these precinct boundaries into consideration when creating Defendant-Intervenors' Exhibit 18. Occasionally, I made the outline of a district more irregular than it would have been if I had disregarded the precinct lines.

Additional Configurations for Majority-Black Districts

20. In September, 1994, counsel for defendant-intervenors instructed me, for illustrative purposes only, to prepare other configurations for the majority-black districts. First, I was asked to redraw the two majority-black districts found in Defendant-Intervenors' Exhibit 18 for the purpose of getting the highest possible black voting-age population in each district while using only *de minimis* standards of compactness and contiguity, but staying within the±5% deviation range that insures compliance with the one person, one vote doctrine. These illustrative configurations are attached as Defendant-Intervenors' Exhibit 19. The Bossier City district, labeled "District 2A - Maximum Black Percentage", has a black voting age population of 59.1%. The district in the north-central portion of the Parish, labeled "District 8A - Maximum Black Percentage", has a black voting age population of 61.1%. The Bossier City district has a deviation of -4.84%. The district in the north-central part of the Parish has a deviation of -4.86%. These two districts are drawn so as to allow for the creation of the remaining ten districts in a manner meeting applicable legal requirements. They show the shape of districts that would result if capturing concentrations of minority population were the overriding focus in creating the districts. These illustrative configurations show that the majority-black districts proposed by the defendant-intervenors in the *Knight* litigation for use in School Board elections do not maximize black voting age population. Likewise, comparison of the shapes of these configurations shows that the majority-black districts proposed by the defendant-intervenors in the *Knight* litigation are substantially more regular

in shape than the districts that maximize black voting age population.

21. Second, I was asked to create other configurations for the larger of the two majority-black districts, District 8, which is located in the north-central portion of the Parish. These configurations were to be drawn with the objective of creating a somewhat more regularly shaped district than District 8 under the plan shown in Defendant-Intervenors' Exhibit 18.

22. I produced two options displayed in Defendant-Intervenors' Exhibit 20. "District 8B" has a black voting age population of 54.2%, "District 8C" has a black voting age population of 55.3 %. The deviation for the two districts is -4.68% and -4.67%, respectively. Both districts encompass portions of Benton and Plain Dealing. Each of these districts is drawn so as to allow for the creation of the remaining eleven districts of the School Board in a manner meeting applicable legal requirements.

23. I also have compared several configurations of District 8, the north-central majority black district, with those for District 4 of the proposed School Board and existing Police Jury plan. District 4 is a majority white district. This analysis reveals that District 4 is also centered in the north-central portion of the Parish. It has a land area of 424 square miles (49.62% of the area of the entire Parish) and is 33.5 miles long from the extreme northwest to the extreme southeast. District 8, as shown in Defendant-Intervenors' Exhibit 18, has a land area of 276 square miles and is 34.5 miles long from the extreme northwest to the extreme southeast. In contrast, "District 8B" has a land area of 218 square miles and is 31.5 miles long from the extreme northwest

to the extreme southeast. "District 8C" has a land area of 252 square miles and is 34.5 miles long from the extreme northwest to the extreme southeast. Each of these configurations of District 8 that I have developed is virtually identical in length to the School Board's proposed District 4 and has a land area considerably less than that of the School Board's proposed District 4. Chart[s] comparing these district lengths and areas are attached as Defendant-Intervenors' Exhibits 30 and 31.

24. Based on the preceding analysis, in my opinion, the majority-black districts proposed in the *Knight* litigation are reasonably compact.

Census Data Analysis of Relative Socio-Economic Status Methodology and Sources

25. At the request of counsel for defendant-intervenors, I prepared tables and bar charts comparing socio-economic characteristics of the population by race for Bossier Parish, which is Defendant-Intervenors' Exhibit 21 to this testimony. I extracted the data for these tables and charts from the 1990 Census of Population and Housing Summary Tape File 3A on CD-ROM (Louisiana). The title of this data source is *Census of Population and Housing: 1990: Summary Tape File 3 on CD-Rom Technical Documentation/ prepared by the Bureau of the Census.* —Washington: The Bureau, 1992. This Census Bureau data source contains far more detailed information about the population of an area than the PL94-171 file referred to previously. I formatted the data and calculated the percentages using a computer spreadsheet, Microsoft *Excel for Windows.* The bar charts were also prepared with Microsoft *Excel.*

26. The five variables displayed in these tables and charts are listed below.

P58 RACE BY EDUCATIONAL ATTAINMENT

P71 RACE BY SEX BY EMPLOYMENT STATUS

P82 RACE OF HOUSEHOLDER BY HOUSEHOLD INCOME IN 1989

P115A PER CAPITA INCOME IN 1989 BY RACE

P119 POVERTY STATUS IN 1989 BY RACE BY AGE

H39 RACE OF HOUSEHOLDER BY VEHICLES AVAILABLE

27. According to the 1990 census, there are wide socio-economic disparities between African-Americans and whites in Bossier Parish.

African-Americans experience a poverty rate that is nearly five times the poverty rate for whites. In 1990, there were 7,380 African-Americans (44.67%) living below the poverty line in Bossier Parish, while 5,961 whites (9.09%) were below poverty.

The percentage of African-Americans living in households with incomes below $15,000 is nearly three times as high as white households with incomes below $15,000. In 1989, 56.37% of black households in Bossier Parish had incomes below $15,000 compared to 21.71% of white households.

The per capita income of African-Americans is only 40% of that enjoyed by whites. The 1989 per capita income of the black population in Bossier Parish was

$5,260 compared to $12,966 per capita income for whites.

The unemployment rate for African-Americans is nearly four times the rate for whites. In April of 1990, the unemployment rate for persons 16 and over in Bossier Parish stood at 22.37% for blacks in contrast to 5.81% for whites.

The percentage of African-Americans without a high school degree is two times the percentage of similarly situated whites. Of African-Americans 25 years of age and over in Bossier Parish, 40.57% have not finished high school, while 16.68% of their white counterparts are without a high school diploma.

Black households are six times more likely as white households to be without access to vehicles. One-fourth of black households (25.87%) in Bossier Parish are without access to vehicles versus 4.17% of white households.

Therefore, I would conclude that there are substantial socio-economic disparities between the black and white populations of Bossier Parish.

School Board's Proposed Plan Lack of Conformity with Redistricting Criteria

28. In the preparation of redistricting plans two of the most fundamental criteria that must be met in every plan are compliance with the one-person, one-vote doctrine and the contiguity of election districts. Except in unusual circumstances, every final election plan which a redistricting consultant prepares should have a total deviation of less than 10% in order to conform to the one person, one vote doctrine. The

principle of contiguity refers to the practice of having each unit of geography included in a district in an election plan connected by at least a part of one of its borders with part of one of the borders of another unit of geography in that same district. The usual practice is to have more than a mere point at this place of connection. There are virtually no exceptions to the doctrine of contiguity.

29. In order to calculate the total deviation for a plan, one must go through several steps using population information based on census data. First, the Ideal District Size must be calculated. This is done by dividing the total population of a jurisdiction by the number of seats on the legislative body. For Bossier Parish, the total population is 86,088. Dividing this figure by the 12 seats on both the Police Jury and the School Board yields an ideal size of 7,174 per legislative district. Then the analyst calculates the deviation for each district of the plan under consideration. This is calculated by subtracting the Ideal District Size from the actual District Population in the district and dividing that result by the Ideal District Size. This is then multiplied by 100 to get a percentage. The formula is as follows:

$$\text{Population Variance} = \frac{\text{District Population - Ideal Size}}{\text{Ideal Size}} \times 100$$

If the district you are inspecting has more people than the ideal size, the variance will be a positive number, meaning that this district is "underrepresented," while a district with fewer people will yield a negative number for its variance and is said to be "overrepresented."

30. The Total Deviation for the plan can be determined after one has calculated the Population Variance

for all of the districts. To calculate the total deviation, I identify the district with the largest positive variation and the district with the largest negative variation. I then convert the negative number into a positive one and add the two numbers together. For example, if the school district with the largest positive variance scored 3.65% and the one with the largest negative variance scored -4.1%, you would add the numbers and have a Total Deviation of 7.75%. This is the number that should be under 10%. The standard practice in the development of election plans is to keep the deviance range within +5% and Louisiana law (cite) states that this is what should be done to comply with the one-person, one-vote doctrine.

31. The police jury electoral plan adopted by Bossier Parish Police Jury which the School Board proposes to adopt as its election plan has a population deviation in excess of 10%. Mr. Joiner, who developed the plan, has testified that the total deviation is 11.75%. Counsel for the Defendant-Intervenors provided me with a GIS database for Bossier Parish given to them by Mr. Gary Joiner, redistricting consultant for the School Board. This database contains data on the election plan under consideration here and Bossier Parish population data as well as precinct boundaries. Using this database, I have determined that it is possible to make slight alterations to the current Police Jury plan so as to bring the deviation for that plan to within the 10% total deviation guideline. This can be accomplished by two easy steps. First, one simply rejoins the two of the three new precincts formed when Mr. Joiner split former precinct 2-18 between election districts 3, 4, and 6 as he created the 1991 Police Jury plan. By rejoining new precinct 2-18B with 2-18C and

putting all of this population in District 3, the District 3 population is closer to the ideal size, (7306 persons, deviation 1.84%) and is no longer the smallest district in the plan. The second step for getting under 10% is a bit more complex but is still not difficult to achieve. In creating Districts 8 and 5, Mr. Joiner found it necessary to divide old precinct 2-17 into 2 new precincts. New precinct 2-17A went to District 5, new precinct 2-17B was assigned to district 8, while new precinct 2-17C was put in District 4. Defendant-Intervenors' Exhibit 22 shows the current configuration of precincts 2-17A and 2-17B. The result was that District 5 had a population of 7607 and a deviation of 6.04%. If old precinct 2-17 is merely divided in a different manner, as is shown by Defendant-Intervenors' Exhibit 23, the populations of the two districts and their deviations are as follows: District 5 - 7219, deviation 0.65 % and District 8-7287, deviation 1.58%. After these simple changes, the deviation of the plan is reduced to 8.63%, based on Districts 2 and 6 which then have the extreme deviations with 4.84 and -3.79%, respectively. As further proof that it is possible to create a plan with a deviation under 10%, it should be noted that the election plans developed by the NAACP and the Knight plaintiffs all have a deviation under 10%. These elections plans are thus presumptively superior plans under the one-person, one-vote doctrine to the plan adopted by the School Board.

32. As noted above, contiguity is also a fundamental redistricting criterion. Recent analysis that I have performed on the above mentioned database obtained from Mr. Joiner reveals that District 9 of the Police Jury plan proposed by the School Board is not contiguous. Not only do the two portions of this district fail to have common borders with one another, they do

not even share common point as the closest two points of these parts are over 100 feet a part. Attached as Defendant-Intervenors' Exhibit 24 are maps showing this. The first map, Defendant-Intervenors' Exhibit 24A, shows all of District 9, the area in dark green, along with portions of other districts in that area of the parish. Defendant-Intervenors' Exhibit 24B is close up detail of that area showing that two segments of District 9, again the area in dark green, do not even connect. The GIS database and program show the distance between the two segments to over 100 feet. These two segments of District 9 are whole precincts—precincts which existed with the same boundaries in the previous plan but which were in a contiguous district due to the inclusion of another precincts [*sic*] in the previous plan.

33. All of the districts in the complete election plans submitted by the NAACP and the Knight plaintiffs are contiguous and in no instance is that contiguity accomplished by mere point contiguity. One of the exemplary districts submitted with my report, District 8A, part of Defendant-Intervenors' Exhibit 19, does have point contiguity, but that district was purposefully drawn to show what a district would look like that paid only minimal attention to traditional redistricting principles and sought to maximize the black voting age population in the district.

34. I have been requested by counsel, to use one of the alternative configurations of the majority black election district from the northern part of Bossier Parish, District 8C, that was part of Defendant-Intervenors' Exhibit 20, along with District 2 from the plan I developed in the *Knight* litigation, and created another alternative election plan for Bossier Parish. I

was asked to minimize the number of precinct breaks as I constructed this plan. The population characteristics of this plan are set forth in Defendant-Intervenors' Exhibit 25A. The total deviation of this plan is 9.16%. A map showing the configuration of this plan is attached as Defendant-Intervenors' Exhibit 25B and maps showing details around the municipalities are attached as Defendant-Intervenors' Exhibits 25C, 25D, 25E and 25F.

35. This new plan would require 27 additional voting machines, if no changes were made to the current precinct lines of Bossier Parish. It splits 24 precincts and would require that 9,270 persons of voting age to be assigned to the additional voting machines. Defendant-Intervenors' Exhibit 26 sets forth the data supporting this conclusions [*sic*]. If one used the precinct lines that were in effect before the 1991 redistricting of the Police Jury, only 22 precincts would have been split, with a total of 25 discrete splits. This is shown in Defendant-Intervenors' Exhibit 27.

36. Since precinct consolidation is possible under Louisiana law, I have also made a preliminary assessment of how the splits necessitated by this plan could be realigned into a smaller number of precincts. Defendant-Intervenors' Exhibit 28 shows that a precinct realignment based on this plan could result in as few as 46 precincts, three new precincts above the 1990 total, and a shift of 12,511 persons of voting age in new precincts. This precinct realignment is only an example. Different realignment configurations would be possible. These could result in either a smaller number of precincts or the reassignment of fewer people to new precincts. By contrast, the plan adopted by the Police Jury in 1991 had a total of 56 precincts, 13 above the

1990 total, and shifted 8,466 persons of voting age into different precincts. I did not have a detailed map showing current state legislative districts so this evaluation does not take into account state legislative districts, which could create the need for a few additional splits. It is clear, however, that a plan with two majority black districts could be adopted without significantly altering the number of election precincts in Bossier Parish.

37. I understand that the Bossier Parish School Board claims that it is unable to create any majority black district in the parish because that would require breaking existing precinct lines. It is not usual practice in the redistricting process, in my experience, to elevate the preservation of precinct boundaries over consideration of the one-person, one-vote doctrine, compliance with the Voting Rights Act, or redistricting principles such as compactness and contiguity. Precincts exist for the administration of voting. While it may raise administrative issues for precincts to be changed, or for different precincts to be used for election of different bodies, such as a school board and the police jury, those are issues that can be addressed by proper administration of the voting process, generally at modest or no cost, and I do not elevate such considerations over compliance with federal law in my work.

***Cane* v. *Worcester County*—Plaintiffs' Proposed District**

38. As is indicated by my report in this case, I prepared the election plans submitted by the plaintiffs in *Cane* v. *Worcester County*, 35 F.3d 921 (4th Cir. 1994). The County's claim that the plaintiffs' configuration violated the doctrine of *Shaw* v. *Reno* was rejected by both the District Court and the United States

Fourth Circuit Court of Appeals. A copy of the plan submitted by the plaintiffs in that case is attached as Defendant-Intervenors' Exhibit 29A. Close-up views of the area around the three towns which have part of their population in the district are attached as Defendant-Intervenors' Exhibits 29B, 29C, and 29D.

Conclusion

39. A comparison of the sample alternative that the NAACP and I have drawn demonstrates that redistricting of the 12 single member district Bossier Parish School Board using 1990 Census can be accomplished so as to create two majority-black districts while achieving *superior* results on one-person , one-vote and contiguity principles, and while creating fewer, but certainly a similar number of, voting precincts.

I, William S. Cooper, do hereby declare, under the penalty of perjury, that, to the best of my knowledge, the foregoing information is true and correct.

April 8, 1995

/s/ WILLIAM S. COOPER
WILLIAM S. COOPER

[Referenced exhibits omitted from J.A. See Defendant-Intervenors Tab G: Exhibits 18-33 for originals]

Excerpts from Volume I of Trial Transcript in *Bossier Parish School Board* v. *Reno*, C.A. No. 94-1495 (D.D.C.), April 10, 1995

Testimony of Appellee's witness Barry Musgrove – Cross Examination by the Appellants

BY MS. SARDESON:

* * * * *

[41]

* * * * *

Q And you are aware, are you not, that Police Juries can change precinct lines once they have been established?

Basically I understand that, yes, ma'am.

Q. And there is certainly no state law requirement that would prohibit a School Board, just as any other member, or any citizen of Bossier Parish, for that matter, from requesting of the Police Jury that they change there [*sic*] precinct lines?

A. Restate, please?

Q. You are not aware, are you, of any state law requirement that would prohibit the School Board, or any citizen of Bossier Parish, from requesting that the – of the Police Jury that they change their precinct lines?

A. I am not aware of any such law, no, ma'am.

Q. And, in fact, that does, indeed, happen from time to time, are you aware of that?

A. I would assume so, yes, ma'am.

Q. So you would agree with me would you not, Mr. Musgrove, that there is no reason why a School Board could not develop its own redistricting plan, and if it split precincts, then go to a Police Jury with a request to reconfigure its precincts to accommodate that plan?

MR. THORNTON: Objection, Your Honor.

THE COURT: Overruled.

[42]

MR. THORNTON: She said –

THE COURT: Overruled. Overruled.

THE WITNESS: Ms. Sardeson, I am comfortable with addressing the Bossier situation, but I am not real comfortable addressing any other parish situation. I assume that any parish can do anything that they have a desire to do.

But in our situation, our initial hope was to jointly develop a plan between the two public bodies, and when that did not come to fruition, the Police Jury said that they were going to do their own thing, and when that went out the window, then we proceeded in the other direction of retaining Mr. Joiner.

BY MS. SARDESON:

Q. My specific question to you, and I will put that in Bossier Parish then. You are not aware of any state law requirement, are you, that would have prevented the School Board, the Bossier Parish School Board, from developing a redistricting plan, or discussing develop-

ing a redistricting plan that split precincts, and if it did that going to the Police Jury to—and requesting it to reconfigure the precincts to accommodate that plan?

A. Ms. Sardeson, my response would be that my understanding, and certainly I am not a lawyer, but my understanding was that that would have been possible if we [43] jointly worked on developing precincts, but that once the Police Jury established their lines, then we were obliged to operate within the precinct lines so established by their rules.

Q. So it is your understanding that the Police Jury can't split precincts?

A. Well, I have—I have two feelings on that. One, we operated under the premise that only they could—had the authority to split precincts. Since that time, you know, I have had information from several sources that perhaps the state law prohibiting the violation of precinct lines also applies to the Police Jury.

But at the time that we were negotiating or considering all plans, it was my understanding that the Police Jury was the only body that had the authority to violate precinct lines, yes, ma'am, or to redraw. Did I—am I answering your question?

Q. Was it your understanding—are you saying that it was your understanding during the time leading up to the School Board adopting the Police Jury plan that it was not possible for the School Board to go to the Police Jury and request that the Police Jury reconfigure its precinct plan?

A. Well, I personally did not know that that was an option until after our plan had been denied by the Justice Department.

[44]

Q. But you know that that is an option today?

A. That?

Q. Do you know that the option of going to the Police Jury to request that they reconfigure their precinct lines—

A. Yes.

Q. —was an option at that time? You understand that today?

A. Yes, ma'am.

Q. Okay. Now you also stated in your direct testimony that the Police Jury plan, in your opinion, was not the favored plan of the School Board at the time that the Police Jury first adopted it and it was first presented to the School Board?

A. Restate, please?

Q. You stated in your direct testimony that the School Board didn't automatically favor the Police Jury plan when it was first presented to the School Board?

A. That is correct.

Q. In fact you, yourself, didn't immediately favor that plan, did you?

A. No. I was hoping that we could derive our own plan.

Q. And did that hope include a twelve member board?

A. My personal opinion is that I would have liked to have seen our board reduced to nine, seven or five districts, but that was not the feeling of the majority of the board.

* * * * *

[47]

* * * * *

Q. In fact there was no discussion about the NAACP plan after Mr. Joiner said that it split precincts, isn't that true?

A. From my viewpoint, yes, ma'am.

Q. You also stated in your direct testimony that after the Justice Department denied preclearance to the School Board's redistricting plan, we were further told that we were not permitted to gerrymander for racial purposes, is that correct?

[48]

A. Restate, please?

Q. You stated in your direct testimony that after the Justice Department denied preclearance to the School Board's redistricting plan, and I quote from your direct testimony, we were further told that we were not permitted to gerrymander for racial purposes?

A. Well, if you are reading, then I assume that I said that. I believe that what I intended to convey is, again, violating of existing precinct lines by state law to gerrymander any district, whether it be for majority or minority purposes.

Q. Are you making a distinction between the precinct splitting problem and racial gerrymandering? Would you make a distinction between those two definitions?

A. Based on my knowledge I cannot make a distinction. Gerrymandering, my concept of the word is that it is an illegal use of precinct lines to configure a district that will favor either a majority or a minority situation. I have a hard time distinguishing between the two personally.

Q. Well, you stated earlier in your direct testimony that Mr. Joiner had told the board that there was a problem that the NAACP split its precincts, is that correct?

A. That is correct.

Q. And that you also stated that that was the reason why you—for you, the NAACP plan wasn't an alternative for the [49] School Board to adopt?

A. The night that it was presented, the president of the board at that time, David Harvey, asked Mr. Joiner to come in, and his response was that the plan was illegal because it violated numerous existing precinct lines that we had no authority to do. I might—may I?

James Bullers was the District Attorney who was acting as our counsel, also made the comment at that

time that he agreed that should we adopt that plan that we would be sued.

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BY MS. BRANNAN:

[59]

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Q. Mr. Musgrove, you identified the *Lemon* case as the district school desegregation case a few minutes ago. Isn't it true that you know virtually nothing about the school district's obligations in that on-going school desegregation case?

A. Yes. That is essentially true. I really had not heard about that case until we were called to Baton Rogue [*sic*] last year.

Q. You were called to Baton Rogue [*sic*] because my client sued the School Board to try to get it to adopt a legal redistricting plan?

A. Yes, ma'am.

Q. I would like to go back for a moment to this question of precinct splitting versus racial gerrymandering. Are you familiar with the old Bossier area of Bossier City in the parish?

A. In general, yes, ma'am.

Q. Isn't it true that in that area of Bossier City, if it weren't for the precinct issue, you think that a majority black district could probably be drawn without a [60] gerrymandering issue?

A. Restate, please?

Q. Isn't it true that in the old Bossier area of Bossier City, even if it weren't for the precinct issue, you think that a majority black district could be drawn without a gerrymandering issue?

A. If it weren't for the precinct issue?

Q. That is right?

A. Though I am not a demographer, I am aware that that area houses the most significant concentration of minority population, and as a lay person common sense would tell me that that would be as close a potential black majority district as could be constructed.

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Testimony of Appellee's witness Thomas D. Myrick—Cross Examination by the Appellants

BY MS. SARDESON:

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[73]

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Q. You also said in your direct that there were two schools actually physically located in your district?

A. Yes.

Q. And that—both of those schools are up in Plain Dealing, are they not?

A. Yes. Plain Dealing Elementary School, and then Plain Dealing Middle School and High School are in one location.

Q. And both of those schools are predominantly black, are they not?

A. Yes.

Q. And in fact both of those schools are over 75 percent black?

A. I couldn't answer that. I do know that they are predominantly black.

Q. Again, it has been stipulated in this case that Plain Dealing Elementary is 77.7 percent black, and Plain Dealing [74] Junior and Senior High is 76.9 percent black.

A. I would not disagree with that.

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[78]

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Q. But isn't it true, Mr. Myrick, that you actually participated in the Police Jury process?

A. No, absolutely not. I had nothing whatsoever to do with it.

Q. That, in fact, you met with Mr. Joiner, the Police Jury's demographer, in his office on five or more occasions during the Police Jury process?

A. I did not.

THE COURT: Where was his office?

MS. SARDESON: In Shreveport.

THE COURT: I asked—I didn't ask you.

MS. SARDESON: I am sorry.

THE COURT: Where was his office?

THE WITNESS: I do not know where his office is. I have never—

THE COURT: Have you ever been in Shreveport, Louisiana?

[79]

THE WITNESS: Yes, sir.

THE COURT: Have you ever been in his office?

THE WITNESS: No, sir.

THE COURT: Are you sure about that?

THE WITNESS: Absolutely.

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[86]

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BY MS. SARDESON:

Q. Mr. Myrick, you stated in your direct testimony that it was likely you who proposed, shortly after the Department of Justice precleared the Police Jury plan, proposed to the School Board that they adopt the Police Jury plan?

A. Yes.

Q. Just go ahead and—

A. It probably was. I know that I favored it. I don't recall specifically making the motion, but that was my position.

Q. And the reason for your position, was it not, that you were afraid that the members of the School Board were going to become embroiled in a political controversy over the fact that incumbents were pitted against each other?

A. My position was that this plan had been approved by the [87] department—or had been not objected to by the Department of Justice. It seemed expedient to say

that if this plan is acceptable, then why don't we accept it rather than become involved in discussions about minute changes in district lines.

It seemed a good way to say, we don't have anything else to worry about. This plan has been accepted, and we had no objection to it. And I will add, also, that a part of my thinking in the process was that it was more reasonable for the public to understand the district based on it being the same as the Police Jury.

In the past, prior to 1980 as I recall, the—both plans were the same, and the district designation was the same. Between 1980 and 1990 there was much confusion about which Police Jury district you lived in and what School Board, among the voters is what I am saying.

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[95]

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THE COURT: Sir, let me ask you this. You had this meeting with Mr. Joiner before the board, is that right?

THE WITNESS: Yes, sir.

THE COURT: And he showed you several different plans, or more than one, is that correct?

[96]

THE WITNESS: As I recall, sir, I think that it is.

THE COURT: Did any of those other plans cross precinct lines?

THE WITNESS: No, sir, I don't think so.

THE COURT: Did they vary from the Police Jury plan?

THE WITNESS: I am not certain about that. He showed us, Your Honor, that the districts—Mr. Joiner showed me what—the various things that could happen to my district. I did not look at the entire parish, the various other districts. He was showing - -

THE COURT: Each member?

THE WITNESS: Yes, sir.

THE COURT: Each member their parish [*sic*], and that was all that they were interested in?

THE WITNESS: In a sense, yes, sir. That was the primary concern.

THE COURT: Whether you could get reelected from your parish?

THE WITNESS: Whether it would affect my district and how.

THE COURT: That sounds like a member of Congress.

THE WITNESS: Yes, sir.

THE COURT: And you say that you don't recall whether that was at variance with the Police Jury plan, your [97] district boundaries?

THE WITNESS: Your Honor, they—to be very candid about it, I was impressed with Mr. Joiner's

ability to draw these maps with his computer. I had never seen that done before.

THE COURT: That isn't what I asked you, is it?

THE WITNESS: He showed—well, he had told us all along that he could not cross precincts. I think that perhaps he showed us some of the proposed other plans that did cross precincts.

THE COURT: All right. Supposing that they didn't cross precinct lines. Did it change the boundaries of your district?

THE WITNESS: Yes, sir.

THE COURT: And that was contrary to the Police Jury plan, was it not?

THE WITNESS: He showed other—

THE COURT: Just answer my question, and then you can explain.

THE WITNESS: Yes, sir.

THE COURT: And that would then have been contrary to Louisiana state law, in the view of your counsel at least?

THE WITNESS: No, sir. He did not show me a plan that crossed state–I mean precinct lines as a proposal for my district.

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BY MS. SARDESON:

[105]

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Q. Isn't it true that Mr. Price then brought his plan back before the board at the next School Board meeting on September 17th, 1992, do you recall that, the two presentations?

A. I think that that is correct.

Q. And isn't it also true that the School Board just dismissed the plan because of split precincts?

A. We chose to go with the Police Jury plan because it had [106] been approved by the Department of Justice.

Q. But it would be a fair statement, wouldn't it, in light of the comment that you just made, that you didn't even take—give the plan enough thought to find out where your own residence would be in that plan, that the School Board just summarily dismissed the NAACP plan when Mr. Price presented it?

A. I cannot speak for the whole board, but I did not summarily dismiss it.

Q. But the School Board didn't ask Mr. Joiner to conduct any further study on the plan after Mr. Price presented it, did they?

A. Mr. Joiner told us that the proposed NAACP plan split precincts. In fact he gave us a number, that I can't recall now, but it was a pretty high number.

THE COURT: Did anybody present to you during this period a plan whereby minorities would be in the majority of any election district without cutting precinct lines?

THE WITNESS: No, sir.

THE COURT: Nobody?

THE WITNESS: No, sir.

THE COURT: Including the NAACP or any other minority group?

THE WITNESS: No, sir.

THE COURT: Are you sure about that?

[107]

THE WITNESS: That is my understanding.

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[109]

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THE COURT: Was Mr. Price a part of the redistricting process of the School Board of which you are a member?

THE WITNESS: He contributed on a number of occasions and provided a proposed plan.

THE COURT: Did they cut across precinct lines?

THE WITNESS: Yes.

THE COURT: What was the reason that they were rejected?

THE WITNESS: That was one of the reasons, Your Honor.

THE COURT: What were the other reasons?

THE WITNESS: The other reason, in my opinion, was that the district was configured in a real odd way, beginning at the Arkansas state line, and extending on down through the middle of the parish, and it created a School Board district that was not in accord with the previous practices.

Our—our procedure has always been for a School Board member to represent a certain area, and the districts that Mr. Price proposed flashed down through the middle of the parish and created a situation where a School Board member in Bossier City or the southern part of the parish would be representing people who attended a school and [110] resided in the northern part of the parish.

It would distance the voting public in a particular school attendance district from their School Board member, and that was my personal objection to it. And then we were informed that that plan could not be created with a black majority district without crossing precinct lines.

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BY MS. SARDESON:

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[114]

Q. And Mr. Price addressed the precinct split issue in the NAACP plan at the public hearing, did he not?

A. I have heard him address it, and I am not certain that it was at that particular time.

Q. In fact Mr. Price talked about the supremacy clause in his presentation, did he not?

A. I don't think that he used that term.

Q. Isn't it a fact, Mr. Myrick, that Mr. Price told the board that Mr. Joiner, the School Board's own demographer, had had conversations with the NAACP, and that Mr. Joiner had admitted that the use of the precinct law—the state—the Louisiana precinct law, if it impeded the creation of a black majority district, that that would constitution—constitute a violation of the Voting Rights Act, a constitution [*sic*] of federal law?

A. I don't recall that. I recall Mr. Price's statement to the effect that federal law supersedes the state law.

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BY MS. BRANNAN:

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[127]

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Q. Mr. Myrick, I put back up what was marked as United States exhibit number 76-D, which is the proposed School Board plan, which is the current Police Jury plan?

A. Yes, it appears to be.

Q. Which district does Tommy Scarborough represent?

A. The blue one.

Q. That is the same as the one that you would be in if the court approves this plan for the School Board—

A. Yes.

Q. —is that correct?

A. Correct.

Q. And which district is Rick Avery in?

A. I couldn't tell you. I have no idea. I can—

Q. I am sorry, go ahead.

A. I think that I know—I couldn't answer that. I thought that I could tell you where he lived, but I don't — I am not certain of that.

Q. Mr. Myrick, would it help you to remember the conversations that Ms. Sardeson was asking you about with Mr. Joiner during the Police Jury process in which she asked if you were involved, if I were to suggest to you that Rick Avery and Tommy Scarborough were involved some of those conversations as well?

A. With me?

[128]

Q. And with Mr. Joiner during the Police Jury redistricting process?

A. No.

Q. Would it help—

A. That is not true.

Q. Does it help you recall those conversations if I suggested that in paragraph eight-five of the stipulations that your counsel has stipulated that on those occasions you were accompanied by at least two Police Jury members, Rick Avery and Tommy Scarborough, all of whom represent districts, portions of which could be used to create a black majority district north of Bossier City?

A. I never met with a member of the Police Jury. I never discussed the plan with them. I have never met with Mr. Joiner outside a School Board meeting to discuss this reapportionment plan.

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Testimony of Appellee's witness Gary D. Joiner—Cross Examination by the Appellants

BY MR. MULROY:

[135]

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Q. And you incorporate that input from your employers when you are drawing the plan, isn't that correct?

A. Yes.

Q. You don't inject your own personal preferences into the plan, do you?

A. No.

Q. So when you are drawing a redistricting plan, you follow the instructions of the government officials who employ you, [136] that is fairly stated, correct?

A. Yes. Unless—occasionally something happens when an elected official will ask me to do something that is just totally improper, and it happens rarely, but it does happen occasionally.

Q. And you advise them of all of the relevant state law requirements?

A. Yes.

Q. And you also advise them of all relevant options for redistricting under state law, isn't that correct?

A. Yes.

Q. Now, you had these meetings with small groups of individual incumbents during the Bossier Parish Police Jury redistricting process in 1991, correct?

A. Yes.

Q. And it has been stipulated to by the parties in this case that these meetings were not open to the public. Now let me ask you this question about these meetings. School Board member Thomas Myrick, one of the plaintiffs in this case, attended some of these meetings, did he not, during the Police Jury process?

A. Listening to testimony – if I could I would like to explain what I remember.

THE COURT: Answer the question.

THE WITNESS: I met with certain School Board [137] members, talked to them. Most of the Police Jury members came to my office, two or three at a time.

BY MR. MULROY:

Q. And Thomas Myrick –

A. I met with Mr. Myrick, and I thought that it was at my office. It may not be. I am not – I am not really sure about that, at my office.

Q. He met with you during the Police Jury redistricting process, correct?

A. I met Mr. Myrick.

Q. And discussed redistricting during the Police Jury redistricting process, isn't that correct?

A. But not in the School Board process, the Police Jury process for the Police Jury, and there is a difference.

THE COURT: There is?

THE WITNESS: Yes, sir.

THE COURT: Oh, might be.

BY MR. MULROY:

Q. So your testimony then, if I can understand it correctly –

A. Can I expand on that?

THE COURT: No. Answer questions.

BY MR. MULROY:

Q. Your testimony then is that School Board member Thomas Myrick met with you during the Police Jury redistricting [138] process to discuss the redistricting for Bossier Parish, is that fairly stated?

A. For the Police Jury, and he was certainly aware of it. Yes, I would say yes to that.

Q. Now, you did testify at deposition, did you not, that he met with you some five times in your office, did you not?

A. I don't recall. I certainly met with Mr. Myrick at various times, and other School Board members. I don't recall saying in my office. Maybe I did. I don't – of course I had almost twenty hours of deposition, too. I may have.

Q. Well, you did take a deposition in this case, is that correct, Mr. Joiner?

A. Yes, sir.

THE COURT: Just a minute, counsel. Witnesses don't take depositions. Witnesses submit to depositions.

MR. MULROY: I stand corrected.

THE COURT: Now let me show you how to do it. Bring it up here.

MR. MULROY: Bring the deposition transcript?

THE COURT: Yes.

MR. MULROY: Thank you, Your Honor.

THE COURT: Do you recall your deposition being taken on October 14, 1994?

THE WITNESS: Yes, sir.

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THE COURT: In this case, by Mr. Gary Joiner?

THE WITNESS: Yes, sir.

THE COURT: And you were under oath at that time, were you not?

THE WITNESS: Yes, sir.

THE COURT: And that was in the case of Bossier–

MR. MULROY: Bossier, Your Honor.

THE COURT: Bossier Parish School Board versus Jane [*sic*] Reno and others in this case, right?

THE WITNESS: Yes, sir.

THE COURT: Now at any time following the redistricting process for the Police Jury, did you have any discussions with any other member—any member of the School Board?

THE WITNESS: Yes, Sir.

THE COURT: With whom did you have such discussions?

THE WITNESS: When I went before the School Board, I certainly discussed that with every member of the School Board. I recall having conversations with both Mr. Myrick and with Mr. Musgrove, and with the staff of the School Board.

THE COURT: Is it your testimony today that Mr. Myrick did not come to your office?

THE WITNESS: No, sir, it is not.

[140]

THE COURT: What is your testimony? Did he come to your office or didn't he?

THE WITNESS: I believe that he did. I certainly do. I couldn't tell you the dates, Your Honor. I am not sure about that.

THE COURT: The question that you discussed with Mr. Myrick in your office was the district boundaries that had already been created for election of the School Board before there was a vote, isn't that right?

THE WITNESS: I don't recall that, Your Honor. For the School Board?

THE COURT: For the Police Jury?

THE WITNESS: For the Police Jury. That would have made sense, yes.

THE COURT: Do you recall how many meetings that you had with Mr. Myrick?

THE WITNESS: No, sir, not offhand, but I would assume that over the course of the project probably half a dozen.

THE COURT: Ten?

THE WITNESS: It could be. I really didn't keep records of who I spoke with on any– at any given time.

THE COURT: All right. Did you have occasion to call him and seek him out?

THE WITNESS: I do not recall calling him. I [141] typically work through staff.

THE COURT: Did he ever have occasion to call or contact you directly?

THE WITNESS: Yes, sir. I believe that he did on at least one occasion. Yes. I will answer that yes.

THE COURT: When he came to see you was he concerned about his own district alone?

THE WITNESS: I would say that I have never been in a meeting with an incumbent when they were not concerned about at least where their boundaries were. And I would say that that would extend to Mr. Myrick.

THE COURT: He was concerned about his own district?

THE WITNESS: I would say so, yes. Whether he said that verbally or not, I don't know.

THE COURT: And he came to see you what the jury – the Police Jury plan would look like in terms of its boundaries?

THE WITNESS: I would say so, yes.

THE COURT: And he left you with the impression that the Police Jury plan would ultimately be the School Board plan, right?

THE WITNESS: Yes, sir.

THE COURT: Did you have any occasion to discuss with Mr. Myrick, or Mr. Jerome Darby, the Police Jury plan?

[142]

THE WITNESS: Yes, sir. I certainly spoke to Mr. Jerome Darby about it on several occasions.

THE COURT: Did either of them ever have any– give you any indication that they wanted a black majority district?

THE WITNESS: No, sir.

THE COURT: As a matter of fact they indicated just to the contrary, didn't they?

THE WITNESS: Yes, sir. In the context –

THE COURT: You answered my question.

THE WITNESS: Okay.

THE COURT: On how many occasions did you talk with Mr. Darby?

THE WITNESS: Several. I don't remember how many, but several. Both in meetings, before and after meetings, at my office. And by telephone.

THE COURT: Now wait a minute, sir. Did you have any individual conversations with members of the Police Jury about the drawing of black majority districts?

THE WITNESS: Individual conversations?

THE COURT: No. Any conversations with individual members of the Police Jury about drawing black majority districts?

THE WITNESS: Not that I recall.

THE COURT: All right, counsel. You can have this [143] back.

MR. MULROY: Thank you, Judge.

BY MR. MULROY:

Q. If I may just quickly follow up on one point that you just made, Mr. Joiner, as Judge Richey was questioning you. Police Juror Jerome Darby during the Police Jury redistricting process is a black Police Juror, is that correct?

A. Yes, he is.

Q. Mr. Darby didn't affirmatively tell you that he opposed the creation of a black majority district during the process, did he?

A. Oh, no.

Q. In fact he did ask about the possibility of creating a black majority district, did he not?

A. It was more involved than that.

Q. But the answer would be yes, he did ask about the possibility of creating a black majority district, is that correct?

A. Yes. The answer to that would be yes.

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[149]

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THE COURT: I asked you, what was the highest percentage of African Americans in a proposed district that you generated on your computer when considering alternatives for elections to the School Board?

THE WITNESS: In a complete plan it was probably not over thirty percent, thirty or forty percent.

THE COURT: How about Police Jury?

THE WITNESS: The same. I doubt that it was that high.

THE COURT: Would it be higher in the School Board? They are the same, aren't they?

THE WITNESS: Yes, they are. It would be the same.

THE COURT: Okay. So you got up to thirty or forty percent?

THE WITNESS: Maybe.

THE COURT: Well, maybe. Do you know? You did it, didn't you?

THE WITNESS: Yes, sir, but it has been a long time, and those plans were destroyed in a computer catastrophe in my office.

THE COURT: Well, did you give them—what program did you use? Autocad, or Word Perfect, or Microsoft Word, or what?

[150]

THE WITNESS: No. I used Geodistrict from Geographic Data Technology, and GIS Plus from Caliber Corporation, and the problem was that I was backing it up, so my back up was blown away when my—

THE COURT: Your back up was what?

THE WITNESS: My back up sort of self destructed.

THE COURT: Was it on tape or diskette?

THE WITNESS: Yes, sir, it was on tape.

THE COURT: What about the hard drive?

THE WITNESS: It went down, too. We had a power failure at the worse possible moment.

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[151]

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MR. MULROY: And just for the purposes of clarification, Judge, the United States does not dispute that it is impossible to draw two black majority districts to actually - -

THE COURT: Impossible did you say? You don't want to dispute the fact that it is impossible to draw two black [152] majority districts.

MR. MULROY: Without splitting at least a single precinct. We do not dispute that in order to go from the forty-five percent range up over to the fifty percent range for the two districts that it might be necessary to split a single precinct. It is our contention that there are ways for School Boards in Louisiana, including this School Board, to handle that situation, and that—

THE COURT: Without—by means of splitting just—not more than one precinct, is that right?

MR. MULROY: No. Actually Judge it is our—

THE COURT: How many precincts are going to have to be, quote, split, unquote?

MR. MULROY: To get one black majority district in the City of Bossier, fourteen.

THE COURT: All right. How many to get two?

MR. MULROY: Twenty-seven.

THE COURT: All right. Do you agree with that?

THE WITNESS: Yes, sir.

THE COURT: Are you the source of that information?

THE WITNESS: No, sir. They had someone else do it, but I verified it.

THE COURT: And you verified it on your computer?

THE WITNESS: Yes, sir.

THE COURT: Even though it crashed you still [153] remember?

THE WITNESS: That is after that.

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BY MR. MULROY:

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[155]

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Q. Would you agree with the statement that any plan at all, whether black majority districts or not, which

any significant way deviated from the Police Jury plan, would inevitably split at least one precinct somewhere?

A. I haven't done a test to test all of them. I don't think—I don't think that you—I know that you could not have another plan that was as strong as this one without splitting precincts.

[156]

Q. How long would it have taken you to figure out whether any other alternative, which is significantly different from the Police Jury plan, in any way, black majority or otherwise, was possible without splitting precincts?

A. Several hours at least.

Q. Several hours?

A. At least.

Q. All right. Now, when the School Board—strike that.

When the School Board began its redistricting process, it didn't consider it a foregone conclusion from the git-go that it would adopt the Police Jury plan during its 1992 process, is that correct?

A. That is correct, they did not.

Q. In fact it actively considered the idea of going with another plan, correct?

A. Yes.

Q. Indeed when the School Board first hired you in May of 1991, didn't you estimate that your redistricting work would take 200 to 250 hours?

A. If they wished to pursue another course, yes.

Q. Doesn't it necessarily follow that from the start the School Board was at least considering the idea of adopting a plan which split at least some precincts?

A. No.

Q. Now, as one of the reasons that the School Board has [157] given in this case for adopting the Police Jury plan over alternatives which provide black majority districts, the School Board stated that it had no authority to change precincts, is that correct?

A. Would you repeat that, please?

Q. Sure. When the School Board gave a reason for not adopting—for adopting the Police Jury plan over alternatives which provided minority districts, one of the reasons that it gave was that it had no authority to change precincts, is that correct?

A. Yes. Under Louisiana statute seventeen seventy-one three E two B, I think.

Q. And for that reason it did not give consideration to the NAACP plan as a viable plan, is that correct?

A. That is correct.

Q. But it has been stipulated to in this case that it is quite common for parish School Boards in Louisiana to draw a redistricting plan different from respective Police Jury redistricting plan.

In fact, isn't it true that you testified at deposition that out of the nine plans that you have worked—nine parishes in which you have worked in which the School Board and the Police Jury had the same number of districts, five had different plans?

A. Yes, that is correct.

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[165]

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Q. Let me ask you this question. It was your practice to fully inform your clients, including the School Board, about all options that they would have, including options regarding the changing of precinct lines, is that correct?

A. Yes.

Q. And that would include—strike that.

Louisiana law provided, did it not, that after January 1st, 1993, precinct consolidations, putting them together, could be made, reducing the number of precincts in the parish parish-wide, and quote, substantially, unquote, reducing election costs, is that a fair statement?

A. That is true. As a matter of fact, I am currently engaged in a project with the Police Jury to consolidate precincts.

Q. But they haven't finished consolidating precincts yet, have they?

A. No, they have not.

Q. And it has been what, four years since the Police Jury originally passed this plan?

A. There was a moratorium on precinct—on changing any precinct lines in the State of Louisiana for approximately two years. January 1st, 1994, they can change them, and it will go on until just before the next Census.

[166]

Q. Didn't you just testify that after January 1st, 1993, precinct consolidations could be made?

A. It could be 1993. There was a moratorium for about two years.

Q. So it has been two years, and the Police Jury still hasn't bothered to consolidate these precincts, is that right?

A. It is totally up to the Police Jury.

Q. If election costs were really a big concern on this precinct issue, it would be in the Police Jury's and the School Board's interest to reconsolidate precincts as fast as possible, right?

A. Part of the problem—yes. Part of the problem is this procedure.

Q. You answered my question, yes. Do you need to explain your answer, or is it yes?

A. I would like to. I would say yes, and I would also like to explain.

Q. So in order to answer the question whether or not it would be in the Police Jury's and School Board's

interests to reconsolidate as soon as possible, yes is not sufficient, you would need to explain that?

A. I would like to.

Q. Please.

A. Certainly it is in their best interest, because it [167] reduces the cost of elections. The average costs of elections per precinct in the State of Louisiana is between $850 and $900. According to the Commissioner of Elections Office.

If the Police Jury in Bossier Parish goes ahead and consolidates precincts as they are now, and this case is still pending, then it would be a wash. It would be a useless waste of public money.

Q. Well, since you raised this figure of how much election costs are per precinct, let me ask you a question about that. School Board elections in Bossier Parish are usually held in the fall of even numbered years, correct?

A. Okay. I will go along with that.

Q. And that is when congressional elections are held, correct?

A. Yes.

Q. You testified that election costs are about $800 per precinct for elections, is that correct?

A. That is what the State of Louisiana told me.

Q. But you did not communicate—strike that.

Isn't it true that that figure includes the costs that are borne by the State of Louisiana?

A. Yes. If the State of Louisiana participates in the election. Now it is possible that the School Board elections may be held at a different time.

[168]

Q. If the School Board elections—the School Board elections would normally be held at the same time as congressional elections, we just agreed to that, is that correct?

A. Yes.

Q. Now, isn't it true that under Louisiana law that at least half of the cost of such elections are borne by the State of Louisiana?

A. It depends entirely on the number of races being held. There is a formula, and I am not aware of the formula. I cannot recite the formula, but yes, you are right, they do get state assistance. There is currently a bill on [*sic*] the Louisiana state legislature that may prohibit a certain amount of that if it passes.

MR. MULROY: Judge, at this time I would like to ask the court to take judicial notice of certain Louisiana statutes regarding election expenses, and just what the formula is that Mr. Joiner is referring to. For the purposes of notifying counsel, opposing counsel. I am refer [*sic*] to Title 18, Sections 14.1(a)—1400.1(a), 1400.2(a), and 1400.3 (a), and without belaboring the point further, I would simply like to ask permission to approach to give this statute to the Clerk.

THE COURT: Without objection you may do so.

MR. MULROY: Thank you, Judge.

[169]

MR. THORNTON: Do you have a copy for me? I didn't bring my entire statute.

THE COURT: You can get it up in the library.

MR. THORNTON: Louisiana statutes?

THE COURT: Sure.

MR. MULROY: I would be happy to do that, Mr. Thornton.

THE COURT: We have every state code in the country here.

BY MR. MULROY:

Q. You said before that you could have a single, just a single black majority district inside Bossier City by creating only fourteen new precincts, right?

A. Yes.

Q. And it would also be the case that in such a case the precincts would be all within Bossier City, primarily along the river, isn't that what you testified to?

A. I believe that that is correct.

Q. Isn't it also true that one polling place can be used for two different precincts in Louisiana?

A. Yes.

Q. And that is such a case Louisiana law allows the parish to reduce the number of polling place officials to as low as two commissioners per precinct?

A. It is up entirely to the Commissioner of Elections [170] Office.

Q. Isn't it actually up to the parish—

THE COURT: He is probably a friend of Governor Edwards.

THE WITNESS: Soon not to be Governor Edwards.

BY MR. MULROY:

Q. Isn't it actually up to the Parish Election Board?

A. They can—the Registrar of Voters and the Clerk of Court maintain most of that information. I am not either one of those, so I would rather not testify to that.

MR. MULROY: Judge, at this time I would like to ask the court to take judicial notice of some other Louisiana statutes that describe this issue and establish that in such a case—first of all, you can consolidate polling places across precincts, and that in such a case you can reduce the number of polling place officials to as low as two commissioners per precinct.

THE COURT: Very well.

MR. MULROY: The statute—

THE COURT: Without objection it will be received.

MR. MULROY: Thank you.

THE COURT: Next?

BY MR. MULROY:

Q. These measures that I am talking about would reduce election costs, would they not?

[171]

A. If they were implemented, yes. However, just because you combine two polling places in one precinct does not mean, arbitrarily, that you reduce total costs, because you are probably going to have a machine for each precinct. So you would have machine costs, too.

Q. Did the School Board direct you, prior to October 1st, 1992, to do a comprehensive study of these issues to see just how much election costs could be reduced?

A. No. Because it varies, and no, they did not.

Q. Now, isn't it further true that you can implement precinct splits by using additional voting machines, or by using lockouts on voting machines?

A. You can use lockouts, but it depends on the quality and age of the machine.

Q. Now as to the use of these additional voting machines or lockouts, these are measures which need only be taken when there is a School Board election under this scenario, correct?

A. In the simplest terms, yes.

Q. And assuming that School Board elections are held once every four years, there are going to be at

most two more elections between now and the next redistricting, isn't that fairly stated?

A. Yes.

* * * * *

Excerpts from Volume II of Trial Transcript in *Bossier Parish School Board* v. *Reno*, C.A. No. 94-1495 (D.D.C.), April 11, 1995

Testimony of Appellee's witness William T. Lewis—Cross Examination by the Appellants

BY MS. BRANNAN

[8]

* * * * *

Q. How many regular high schools are there in Bossier Parish?

A. Six.

Q. And one of them, Plain Dealing Senior High School is seventy-nine percent black according to that report?

A. Close.

Q. So by drawing six attendance areas and maintaining those in the school district, you come up with a school that is seventy-nine percent black?

A. Correct.

Q. And that high school is up here in Plain Dealing in Mr. Myrick's district?

A. Correct.

Q. How many regular elementary schools are there in Bossier Parish?

A. There are sixteen.

Q. And there are also attendance areas for elementary schools?

A. That is right.

Q. And four of those school are predominantly black aren't they, Mr. Lewis?

A. Correct.

[9]

Q. And those are Bossier and Butler Elementary?

A. Right.

Q. And those are down in the City of Bossier?

A. Correct.

Q. Which is down in this area which is marked with the district seven and eight area on U.S. exhibit 76 D?

A. Correct.

Q. And Plain Dealing Elementary also is predominantly black?

A. Correct.

Q. And that is back up here in Plain Dealing in Mr. Myrick's district?

A. Right.

Q. And Plantation Park Elementary is also predominantly black, is it not?

A. I am not going to say offhand that it is, but it is close.

Q. All right. So by drawing sixteen attendance areas and maintaining those for elementary schools, you come up with three or four that are predominantly black?

A. Yes.

Q. And the reason for that is it not, Mr. Lewis, that when you—when you divide these areas, it is the composition of the neighborhood or community that dictates the racial composition of the school in your view?

[10]

A. We believe in the neighborhood school system.

Q. All right. Now the assignment of faculty and staff to schools is in your control, is it not, or that of the school district?

A. That is correct.

Q. It doesn't depend on where they live, or their neighborhoods?

A. No.

Q. And after that report that you signed and made to the court, your full-time teaching staff, including principals and assistant principals, was just under ten percent African American?

A. That is correct.

Q. And by the way, can I call these teachers as a form of short reference, which I believe is the practice that you follow in that report?

A. Correct.

Q. Let's talk for a moment about the assignment of teachers to those majority black schools that we identified a few minutes ago. Plain Dealing Middle and Senior High School at that time had sixteen white teachers and twelve black teachers, which made the teaching staff there over forty percent black?

A. Right.

Q. And that is more than four times the district-wide [11] average?

A. Correct.

Q. And Bossier Elementary had six white and five black teachers, which made that composition about sixteen percent black?

A. Close.

Q. And Butler Elementary had four white teachers and ten black teachers, which made that composition over seventy percent black?

A. Correct.

Q. And that is seven times the district average?

A. I agree with you. I mean I am not disagreeing with what you are saying. That is probably true.

Q. Well, you are welcome to reference the report if you have any doubt about my numbers, Mr. Lewis. You believe—this is not an accident is it, Mr. Lewis?

A. No.

Q. These are deliberate—these proportions are deliberatively assigned by the Bossier Parish school district?

A. Between the school and the principal—between the district and the principals, yes.

Q. And isn't it true, Mr. Lewis, that at your deposition that one of the reasons that you gave for putting black teachers together in concentrations in schools over their representation generally on your staff is that—

[12]

MS. BRANNAN: And I quote, Mr. Thornton, from page seventy-eight of the deposition.

BY MS. BRANNAN:

Q. —that black teachers sometimes feel uncomfortable when there are not many other black teachers at a school with them, and they feel more comfortable when there are others, isn't that correct?

A. That is not the primary reason. That is a reason, but that is not the primary reason.

Q. And you believe that the primary reason that you think that the black community wants role models in the form of black teachers—

A. That is correct.

Q. —in their schools.

A. They have expressed that to us many times.

Q. And so you deliberately respond to that request of the black community by disproportionately assigning black teachers to black schools?

A. That is correct.

Q. Mr. Lewis, isn't it true that an early order of the court in the *Lemon* case required the Bossier District to maintain a Biracial Committee?

A. Yes.

Q. And it was to be comprised of black and white community members?

[13]

A. Yes.

Q. And to recommend to the School Board ways to achieve and maintain a unitary status and improve education?

A. I don't know that that was the original intent, but I am assuming that it was, to make sure that we did maintain the proper rules and regulations.

Q. That committee stopped meeting in 1976, didn't it?

A. Correct.

* * * * *

[15]

* * * * *

Q. Isn't it true, Mr. Lewis, that in this document that you [16] submitted to the court in the spring of 1994, under section 9-A there you reported, and I quote, the Bossier Parish School Board does have a Parish Biracial Committee available?

A. That is correct.

Q. And that wasn't true, was it?

A. Well, it just wasn't active. It doesn't mean that it was disbanded. It just wasn't active.

Q. Well, it hadn't met since 1976 except for the few short meetings that we just discussed in early 1993, isn't that true?

A. That is correct.

* * * * *

Testimony of Appellee's witness William T. Lewis—Redirect Examination by the Appellee

[21]

* * * * *

BY MR. THORNTON:

Q. The court asked you, Mr. Lewis, about attendance zones. When you draw—

THE COURT: Now you are interjecting a new term of art.

MR. THORNTON: Attendance lines.

THE COURT: Whatever.

BY MR. THORNTON:

[22]

Q. When you draw attendance lines, do you also give those to the federal courts?

A. Yes, sir.

Q. All right, sir. That is a part of the obligation, and that is done?

A. Yes, sir.

Q. Have you had anybody complained about [sic] those lines?

A. No, sir.

Q. As a matter of fact, in the *Lemon* suit that you were asked about, Mr. Lewis, have you been sued, or

had motions or petitions filed against the Bossier Parish School Board over the last ten, twelve or fifteen years?

A. No, sir.

Q. Now, you were asked about the black teachers, and you said that somebody had suggested that black teachers out to be assigned to black schools to serve as role models for the young students, is that correct?

A. That is correct.

Q. Who has asked you to do that?

A. Mr. Price and other groups of the black community. They felt like, and I feel the same way, that black kids need good black role models. And the people in Plain Dealing, for example, would go crazy if we took all of their black teachers out of that school and spread them out throughout the parish, because the school is majority black.

[23]

Q. So you were doing this because someone in the black community was saying that that is what the black community would like for you to do?

A. Yes, sir.

Q. All right. Now the court asked you a question about some of the schools that are very predominantly black. It didn't ask you the question that I would like to ask you. Is it not a fact that there are some private schools that opened up in some of those areas?

A. Yes, sir.

Q. And that the private schools are predominantly if not all white?

A. Yes, sir.

Q. Is there anything under the law that you can do about that?

A. No, sir.

Q. Now, you have tried to recruit black teachers, have you not.

A. Yes, sir.

Q. Would you tell the court, if it is true, that you have tried harder to recruit black teachers than white teachers?

A. That is correct we have.

THE COURT: Why?

THE WITNESS: Why? Because we need black teachers in our school system. We need good black role models for our [24] black kids. They need someone to look up to.

I was personnel director for Bossier Parish for six years, from 1980 to 1984. When I would go to the colleges and universities throughout Louisiana, Texas, Mississippi and Arkansas, you would find 120 to 130 teachers graduating every year. A large number of those people being black. Today you go to them, you don't find many people in education any more. They are just not going into it.

The black—the young black people have greater opportunities in other places rather than teaching now, and our salary scale in Bossier Parish—we are actually a bedroom community for Shreveport. Most of the people work in Shreveport, and a lot of them live over there, but they have a tax basis quite a bit greater than ours. Therefore, they pay anywhere from three to $5,000 a year more than what we can.

We can't hang on to our good black teachers in our parish, because they will go over to where they can make the most money. You can't blame a kid coming out of college for wanting to go where the money is. Their start—the difference between our pay and what they make is more than what I made when I started for a year.

So there is quite a bit of difference in today's society. Money is the key to a young person as far as their goals are concerned. And so they are going to go to a school

[25] system where they can make more money than they will teaching in Bossier Parish. Although we have got the best school system in the state, they are still going to go where the money is.

THE COURT: What was your pay?

THE WITNESS: When I started teaching?

THE COURT: No, as superintendent?

THE WITNESS: As superintendent, 65,000, and the man across the river makes over 100,000. So there is quite a bit of difference there. Of course they have got more students than we do. They have got about 55,000, we have got about twenty-two. So there is a difference.

I wouldn't swap with him for anything. We have got a better school system than anybody else.

THE COURT: What are the SAT scores?

THE WITNESS: We don't give the SAT. We give the ACT scores, and it ranks nationally with the national results, close to the national results.

BY MR. THORNTON:

Q. Have you ever asked any of the members of the black community in Bossier Parish to help recruit black teachers?

A. Yes, sir, we have.

Q. Who? Who have you asked?

A. We have asked Mr. Price and other people. Mr. and Mrs. Harry have gone before. Mr. and Mrs. Martin. People in the [26] community.

People that used to work for the school system. One of the things, and I kind of resent this, because I have never had a lot of difficulty relating to people when I was in personnel, but they said that a white person could not recruit a black teacher to a school system.

Well, in order to try to help in that light, we have black administrators, or supervisors, or principals, or whatever, and community members, to go along with us to help recruit, and we still do not get the numbers that we would like.

Now, we get four or five black teachers every year, but we have four or five leaving every year to go next door to teach. As a matter of fact, after school started this year, the school system next to us took four of our black teachers from one of our black schools.

I can't do anything about that. It is their choice to leave. And for us to try to get someone to come in then and take their place, they are not there. So it gives us a very difficult problem. I mean it is a terrible situation for us to be in knowing what we want to do and not being able to do it. And we want good role models for our black kids.

* * * * *

Testimony of United States Government's witness Jerome Darby—Cross Examination by Appellee

[38]

* * * * *

BY MR. THORNTON:

* * * * *

Q. I have just a few questions to ask, if you please. You are a member of the Police Jury of Bossier Parish, are you not?

A. Yes, sir.

Q. You first ran for that office in what year?

A. 1983.

Q. And was that in a district under the old plan that was in existence from the 1980 to the 1990 census?

[39]

A. Yes, sir.

Q. All right, sir. And when you first ran in 1983, did you run from a district that had a majority white population?

A. Yes, sir.

Q. Do you remember the composition, racially, of that district?

A. The composition was about thirty, thirty-seven percent black.

Q. All right. A little— all right, thirty-seven percent. And in 1983 when you ran for that post, how many opponents did you have, and what were their racial designations?

A. Excuse me?

Q. Who did you run against?

A. The incumbent who was black, and also a white opponent.

Q. The black opponent was Johnny Gipson, was it not?

A. Yes, sir.

Q. That is G-i-p-s-o-n, isn't it?

A. Yes, sir.

Q. And he had been elected before you to the Police Jury?

A. Yes, sir.

Q. So in that district you took on the incumbent and another white—and a white candidate?

A. Yes, sir.

Q Allright, sir. Did you win that race?

A. Yes, sir.

[40]

Q. Now, was race an issue in that political campaign?

A. Was it an issue?

Q. Yes. Did you make it an issue?

A. No, sir.

Q. Do you know of anybody else who made it an issue?

A. Yes, sir.

Q. Who?

A. My white opponent.

Q. All right, sir. But you won anyway?

A. Yes, sir.

Q. All right. Now you ran again in 1987, did you not?

A. Yes, sir.

Q. Who were your—the same district? From the same district?

A. Yes, sir.

Q. Was the composition—the racial composition roughly the same again, about thirty-seven percent black?

A. Yes, it was.

Q. And against whom did you run?

A. The same two opponents.

Q. Mr. Gipson?

A. And Mr. McDaniels.

Q. And McDaniels, all right. And who won that race?

A. I did.

Q. Okay, sir. Now the Police Jury then reapportioned, and [41] you ran under their present plan, which is also the same redistricting proposal of the School Board, is that correct?

A. Yes, sir, that is correct.

Q. You ran in 1991?

A. Yes, sir.

Q. All right, sir. Who were your opponents?

A. I was unopposed.

Q. You filed and no one ran against you?

A. Yes, sir.

Q. So you swept into office without opposition?

A. Yes, sir.

Q. Now then, sir, do you—how many seats do you believe that African Americans or blacks ought to have on the Police Jury or on the School Board?

A. At least two to three.

Q. Why, sir?

A. One is because of the fact that by me being—serving the Police Jury for three terms, I have never been able to get white support, regardless. No matter how qualified I am, my white colleagues never support me, under no circumstances. I felt that if we had atleast two to three minorities on the Police Jury that it would definitely be a lot different.

Q. Do you believe that you are entitled to two or three because of the proportion of African Americans to the entire population?

[42]

A. Yes, sir.

Q. All right. Has somebody told you that the Voting Rights Act provides that you should be elected to office as a race in proportion to your numbers to the population?

A. Yes, sir.

* * * * *

[44]

* * * * *

Q. Mr. Darby, I am showing you an exhibit. It is number 5, I think. It is on the blue there, Mr. Darby. What exhibit do I call it? Exhibit number—exhibit

number 5. Now, that exhibit purports to be the minutes, an extract of the minutes of a Police Jury meeting in January of 1994. Would you read it, sir or have you read it?

A. The top?

[45]

Q. Just read it to yourself right quickly. Did you attend the Police Jury meeting?

A. Yes, sir.

Q. The Police Jury meeting was, in part, a meeting about whether it wanted to redraw its plan, and there is some controversy about what it is saying, but do you recall that meeting?

A. Yes, sir.

Q. All right. And in that meeting, the Police Jury of Bossier Parish decided what?

A. That it stood by its original reapportionment plan.

Q. Okay. And it even quotes you as stating that you are concerned that if the Police Board and Police—the School Board and the Police Jury have different district lines, it would be confusing to the citizens of Bossier Parish?

A. Yes, sir.

Q. Did you make that statement?

A. Yes, sir.

Q. All right. However, Mr. Darby indicates that he supports the Police Jury's original plan, is that correct, sir?

A. Yes, sir.

Q. Did you say that?

A. Yes, sir, I did.

Q. So the minutes are accurate?

[46]

A. That is accurate.

Q. And that was as late as January 11, 1994, was it not?

A. Yes, sir.

Q. Do you still stand by those statements?

A. That I support the Police Jury plan as of now?

Q. Yes?

A. No, sir. May I explain?

Q. By all means, sir.

A. Okay.

Q. The Judge would probably like it.

A. In January 11th of 1994, at that time I wasn't aware of the information as far as you could draw minority districts. And what I was saying, and what I have always said, that I wanted to see both, since both bodies have twelve members representing the same people, that we have the same district lines.

And that is what I was saying in that meeting. At the time—at that time I hadn't seen where you could do minority districts. So what I was saying is the fact that you could—that I supported what we had in place because of the fact that I was concerned about what it would do as far as jeopardizing that one seat that we did have.

Q. And you didn't know in January of 1994 that the NAACP plan had been drawn to provide two minority—protected minority districts? You didn't know about any such plan?

[47]

A. I didn't keep up with it, sir.

Q. All right, sir. Now, you have contended that blacks are discriminated against in the school system in your narrative statement?

A. Yes, sir.

Q. That is a pretty broad statement, sir. Do you have any instances or any names to supply the court?

A. I have several instances if you would like me to share some of them.

Q. Well, if the court wants it in a moment. Let me ask you this. Did you report those to the school system?

A. Yes. Not to the administration. Usually it was always directly to that school.

Q. All right. Whom did you report these to?

A. Most of the time it would be like the school principal.

* * * * *

[48]

* * * * *

Q. If I told you that any child, black, white, any child, that was accused of an infraction that might result in expulsion or suspension, that any such child had the right to a hearing in which he or she could bring anyone

they wanted there in his or her behalf? Do you know that to be true?

A. Yes, sir.

Q. All right. Do you know who generally presided over those hearings?

A. Who generally presided over those hearings?

Q. Um-hum?

A. Probably it would be the school attendance officer.

Q. Well, do you know a Mrs. Betty McCauley?

A. Yes.

Q. Did you know that she presided over those for some [49] years?

A. She hasn't always presided over them.

Q. No, she hasn't.

A. At the time that you asked me about the principal?

Q. Yes?

A. That was Mrs. Owens.

Q. Oh, okay.

A. And at the time it was Ms. McCauley, she was also the coordinator at the very school we are talking about.

Q. All right. Ms. McCauley is black, is she not?

A. She is.

Q. And at some point along the way a man named Joshua Bryant—

THE COURT: How do you spell that?

MR. THORNTON: B-r-y-a-n-t, J-o-s-h-u-a, I think.

THE COURT: All right.

BY MR. THORNTON:

Q. Mr. Bryant?

A. Yes, sir.

Q. And he presided over many of these hearings, did he not?

A. I couldn't answer that, Mr. Thornton, because I haven't gone to that degree. The degree that I have been involved with has been strictly for me, as a Police Jury [*sic*], to represent parents in my district. It wasn't to that level. It was always directly with the school.

[50]

Q. Did you know Mr. Bryant?

A. Yes, I do.

Q. What race is he?

A. He is black.

Q. All right. Now then if I told you that neither Ms. McCauley nor Mr. Bryant, in looking over these—in presiding over these hearings, could expel or suspend, that only the superintendent could, did you know that to be true?

A. No, sir, I didn't.

Q. And as the superintendent has testified in his narrative statement, when he makes a decision to accept or reject the recommendation for expulsion or suspension, that he doesn't even know the race of the student, are you prepared to deny that?

A. No, sir. If you tell me that that is true, I will accept that, sir.

Q. All right. Now, having learned all of this, can you think, or would you like to tell the court or us, for that matter, how you believe that we could make the suspension or the discipline system any fairer? What should we do that we are not doing?

A. What should you do that you are not doing?

Q. Yes, sir?

A. One of the things, I think is the fact that even though you have those people in place, they haven't always been in [51] place. Ms. McCauley was one time the principal of a school. When I have gone for parents it has always been to resolve it before it did get to that, and so the level that I have always dealt with principals on was the level of the kids having problems in the classroom, as well as whether the teacher didn't quite understand what was going on with that child. It has always been on that level. It has never been to the level that you have described at this moment.

Q. Okay. Would you fault our hearing system as being unfair?

A. Being unfair?

Q. Yes? Would you say that it is unfair?

A. Just because you have two black people that are involved?

Q. No, sir. Just because we have full and open hearings, and just because we don't make race an issue?

A. Yes, sir.

Q. Is that fair enough?

A. I guess it is.

Q. Then can you think of any reason why more—proportionately more black children are disciplined than white?

A. Can I think of any reason?

Q. Yes? If the hearing system is fair, what would be the reason?

[52]

A. Well, there are so many other variables that you have to take into consideration. Each case is different. There is information that sometimes might not always get—they might not get all of the information correctly.

A lot of things goes on that—before it even get to that. So before I make a statement like that, I would have to be able to look at all of the facts, and look at how it takes place, and all of the proper information to get to that hearing.

* * * * *

Q. Now, you state that you have tried to forget about race and politics, and that you concentrate on issues?

A. Yes, sir.

Q. You even state that you consider yourself to represent all of the constituents of your district, regardless of race, correct?

A. Yes, sir.

Q. And you have made that a theme in your campaigns, have you not?

A. Yes, sir.

Q. Do you think that that is proper to put race behind and talk about issues and represent the entirety of a [53] constituency?

A. Do I feel that that is proper?

Q. Yes?

A. Yes, sir.

Q. Could it be, sir, in your opinion that that may be the reason why you got so many white votes which enabled you to win in that district?

A. To win in my district?

Q. Exactly? Could that be the reason, because you didn't make race an issue?

A. Well, for me as a black person, race has always been an issue, all thirty-seven of my years, regardless. I don't make the issue, but it is an issue, something that I live with.

Q. But you got a lot of white votes, didn't you?

A. Well, when I go back and look at the statistics, it was based on that black base, which is the black community is the one that really helped me to be successful. I did get some white votes, but I wouldn't say a lot of white votes.

Q. Well, Mr. Gipson ran. Didn't he get some black votes?

A. He sure did.

Q. Okay. But in the overall, in the end, you got a lot of white votes which took you over fifty percent, didn't you?

A. Yes, sir.

Q. And you won?

[54]

A. Yes, sir.

Q. And you didn't make race an issue, did you?

A. No, sir.

Q. And I am asking you now sir, maybe when you didn't make race an issue, maybe that is the reason that you got some of those white votes, hum?

A. Yes, sir, but I have never made it an issue.

Q. All right, sir. And I congratulate you.

THE COURT: How many African Americans, sir, reside and are eligible to vote in your district?

THE WITNESS: At the time in 1983, it was about 500.

THE COURT: Wait a minute? 19?

THE WITNESS: 83.

THE COURT: 83?

THE WITNESS: Yes, sir.

THE COURT: Out of 500 voters?

THE WITNESS: Registered black voters.

THE COURT: And how many white?

THE WITNESS: I can't say, Judge, but it was more than 500. It has been a pretty good while, but it was a large number.

THE COURT: When was the last time that you were elected?

THE WITNESS: In 1987. Well, the last time I was [55] elected, 1990 [*sic*].

THE COURT: And what was the percentage of blacks and whites at that time, registered voters?

THE WITNESS: At that time I believe it was twenty-six percent.

THE COURT: That doesn't answer my question. How many black voters were there then, 1990, how many white voters, sir?

THE WITNESS: I don't recall. I can't tell you.

THE COURT: Well, which was the majority?

THE WITNESS: White was.

THE COURT: How much of a majority?

THE WITNESS: About sixty percent.

THE COURT: Sixty/forty?

THE WITNESS: Yes, sir.

THE COURT: And what was your margin of victory?

THE WITNESS: For my last election?

THE COURT: In 1991?

THE WITNESS: Well, that was the election that I was unopposed, so I didn't have anyone running.

THE COURT: What was your margin of victory , even though you were unopposed?

THE WITNESS: A hundred percent, I guess.

* * * * *

Testimony of United States Government's witness Jerome Darby—Redirect Examination by the Appellants

[56]

* * * * *

BY MR. MULROY:

Q. Mr. Darby, there is a military base in your district, is that correct?

A. Yes, sir.

Q. Does that have any effect on your ability to be elected in a white majority district?

A. Yes, sir. In fact it has a big difference. That is what makes, I think, my election a lot more different than the whole area as far as Bossier Parish, because we do have a large military area in the Barksdale Air Force Base which they count that in my district, which makes it look like I have a large number.

But mostly military voters, they don't vote, because they live not necessarily—they are not registered to vote there, and they live up—not live other place, but basically as far as where they are registered it is not there. I have received some military votes as well.

Q. Well, of those military voters in your district who do vote in the local election, is there any reason to think that they might be more or less likely to support you as a black candidate?

[57]

A. One of the things from my own experience is that they are more open minded than most people that do live in Bossier. I think that a lot of it has to do with the exposure and being more open minded.

Q. When you refer to exposure, do you mean the environment in which military people live in, on base or in off base housing, as opposed to the rest of the parish?

A. Well, that and also coming from different backgrounds of the country where people are a lot more open minded.

Q. So most of this military population is not from Bossier Parish.

A. No.

Q. They would not be from Bossier Parish?

A. No. Basically, they are from all over the whole country.

Q. In terms of whether or not they live in an integrated environment compared to the other white residents of Bossier Parish, do you have any knowledge about that?

A. Yes. In fact basically they work real closely with different people from different ethnic backgrounds. Also you have a lot of blended families in military, so it is something that is not real unusual for them.

Q. And when you say blended families, what do you mean by that?

A. Meaning families that are not necessarily both white and [58] white or black and black.

Q. Do you think that you could—based on your experience in Bossier Parish politics, do you think that you could get elected in a white majority district against a white opponent in some other part of Bossier Parish where there wasn't military population?

A. No, by no means. And that holds true because of the fact that even when I have gone and campaigned

for other people, usually people in that parish vote along racial lines, meaning that blacks vote for blacks, and whites vote for whites.

Q. Let me turn to another topic. Mr. Joiner showed you —

THE COURT: Where was Congressman—former Congressman Espe [*sic*] from? Bossier Parish?

THE WITNESS: Espe, from Mississippi.

THE COURT: Oh, that is right, another state. Mr. Thornton condemn me for confusing Louisiana with Mississippi.

THE WITNESS: Yes, sir.

BY MR. MULROY:

Q. Let me move to another topic. Mr. Thornton showed you some minutes of a January 11th, 1994 meeting. Let me ask you a question or two about that. At the time of that meeting, did you understand that there was an NAACP plan which—consistent with the one person one vote requirements and contiguity requirements created two black majority [59] districts? Did you understand that at the time of the January 11th, 1994 meeting?

A. No, sir.

Q. There is also a statement in those minutes that Mr. Thornton asked you about that said that you favored having the Police Jury plan and the School Board plan be the same to avoid voter confusion. The Police Jury plan and the School Board plan for the 1980s were different, correct?

A. Yes, sir.

Q. So for the past ten years or more they have been different, correct?

A. Correct.

Q. In fact, since the proposed plan has [*sic*] not yet been implemented because it is the subject to this preclearance suit, the current plan to this day still has different plans for the School Board and the Police Jury, is that correct?

A. Yes.

Q. If you had to choose, Mr. Darby, between having a situation where the Police Jury plan and the School Board plan were the same, and there were no black districts whatsoever, or another situation where you had a Police Jury plan and a School Board plan be different, but at least the School Board plan would give you two black districts, if you had to choose between those two, which one would you choose, Mr. Darby?

[60]

A. The School Board plan that would give you black districts.

Q. Mr. Thornton—

THE COURT: In order to arrive at that answer, Mr. Darby—

THE WITNESS: Sir?

THE COURT: Excuse me, I apologize to you. In order to give that answer or arrive at that answer, how would you square that with the alleged impediment of Louisiana state law? Do you know what I mean by that?

THE WITNESS: No, sir, if you could explain.

THE COURT: Well, counsel have informed me that in any redistricting plan Louisiana law does not permit changing precinct lines. Have you heard that?

THE WITNESS: I have heard them talk about that throughout this trial. Basically, when we was redoing our—when we was doing our reapportionment, that wasn't a factor. Basically what we basically concentrated on was just the districts, drawing the district lines.

THE COURT: And that cut across precinct lines?

THE WITNESS: District lines?

THE COURT: The new district lines that you were drawing cut across precinct lines?

THE WITNESS: Yes, sir.

THE COURT: And they have argued here that [61] Louisiana state law prohibits that.

THE WITNESS: Yes, sir.

THE COURT: Okay. All right.

MR. MULROY: Thank you, Judge. One final point.

BY MR. MULROY:

Q. Mr. Thornton was asking you some questions about discipline in the schools in Bossier Parish and whether there was any racial discrimination in meting out discipline to students. Your experience you testified on cross examination with the discipline of students was at the lower level, believe [*sic*] you got to the formal hearing process, is that correct?

A. Yes, sir.

Q. And it is possible for discipline to occur at that level, correct?

A. It definitely is.

Q. And in your experience that discipline at that lower level which you know about occurred disproportionately to black students?

A. Yes, it did.

* * * * *

Testimony of United States Government's witness Jerome Darby—Recross Examination by Appellee

[62]

* * * * *

BY MR. THORNTON:

* * * * *

Q. So it wasn't a question of cutting and splitting precincts, it was creating new precinct lines in order to reflect the shift of population from the 1980s to the 1990s?

MR. MULROY: Your Honor, I would like to object to the way that counsel is characterizing that statement, as though there was necessarily some difference between creating a precinct and cutting and splitting precincts.

THE COURT: I think that the court has got enough intelligence to understand that. Overruled.

MR. MULROY: Thank you, Judge.

BY MR. THORNTON:

Q. You created new precincts under the one man one vote [63] rule didn't you?

A. Yes, sir.

Q. And that is your obligation as a Police Jury, is it not?

A. Yes, sir.

Q. Because you are the governing body of the parish?

A. Yes, sir, that is correct.

Q. So you create new precinct lines to reflect the shift in population, and then from that you drew your district lines, twelve of them, is that correct?

A. Yes, sir.

Q. All right. Mr. Darby, do you have any reason to believe, or do you have any statistics, or is there any data available to indicate to you that the white votes that you got in your district were Barksdale people—

THE COURT: Were what?

BY MR. THORNTON:

Q. Were Barksdale Air Force people any more than they were just any other white citizens in that district?

A. Do I have any data?

Q. Yes?

A. Well, if you look at the two precincts that are in my district, basically one of the precincts is predominantly black. It has some white voters there as well. The other precinct is predominantly white. Of course, that means that when military people vote, they vote at that predominantly [64] white precinct. So based on what you just said, no.

Q. So you don't have any data on that?

A. No.

Q. Actually, Barksdale Air Force Base has been there in Bossier Parish for seventy, eighty, or ninety years, has it not?

A. Yes, sir.

Q. It is an old Air Force Base?

A. Yes, sir.

Q. And Bossier Parish is pretty well populated by people from the military who retired at Barksdale Air Force Base and simply stayed in the Bossier community, isn't that correct?

A. Yes, sir, that is correct.

Q. So Barksdale people, whites and blacks, are scattered throughout the parish, are they not?

A. Yes, sir, that is correct.

* * * * *

Testimony of United States Government's witness Jerome Darby—Further Redirect Examination by the Appellants

[64]

* * * * *

BY MR. MULROY:

Q. Mr. Thornton just asked you whether the Barksdale [65] population might be scattered throughout the parish. Based on your experience as a native of Bossier Parish, and your experience in Bossier Parish politics, would you say that there is a higher concentration of what Mr. Thornton called, Barksdale people, in your district as opposed to the rest of the parish?

A. Yes. Because it is closer to the military base, and usually for the area, as far as the community, Government Park and the area along there, that is where most military people, if they are not living on base, they move in those areas.

* * * * *

Testimony of Appellant-Intervenors' witness Jerry Hawkins—Cross Examination by Appellee

[67]

* * * * *

BY MR. THORNTON:

* * * * *

Q. Mr. Hawkins, how many seats do you believe on the School Board African Americans ought to have?

A. At least two, sir.

Q. Why? Why two?

A. Because of the districts.

THE COURT: Because of what?

THE WITNESS: Because of the number of districts that we have.

BY MR. THORNTON:

Q. Do you think that you ought to have two members because that is your proportion to the population?

A. Yes.

Q. All right. Do you believe that that is what the Voting Rights Act stands for?

A. Yes

Q. Has anyone ever told you any differently?

A. No.

* * * * *

[68]

* * * * *

Q. You made the statements that blacks are treated unequally in the school system. Do you believe that?

A. Yes.

[69]

Q All right. Are you familiar that—with the law suit entitled *Lemon versus Bossier Parish*?

A. Yes, partially.

Q. Do you understand it to be the litigation vehicle that presides over the Bossier Parish school system with regard to integration?

A. Yes.

Q. All right, sir. If you believe that blacks are treated unequally in the school system, have you ever filed, or seen filed, or caused to be filed any documents in the *Lemon* case in say the last fifteen years that would assert that?

A. No, sir. But in 1988, I believe it was 1988, the Concerned Citizens raising money for that, and we hired an attorney out of Monroe to go against that litigation, I believe.

And the lawyer did not file the suit. And we was out of money, so we couldn't file another suit, so we went another different direction by contacting J. Bennett Johnson. Sent him a letter, and also sent a letter to Congressman Buddy Roemer at that time. We done everything we could to try to stop this litigation.

Q. I see. But you did not file—nothing was filed in *Lemon*?

A. No, no, sir.

Q. That would have been the place to file it, wouldn't it?

[70]

A. I suppose.

* * * * *

Testimony of Appellant-Intervenors' witness George Price—Cross Examination by Appellee

[77]

* * * * *

BY MR. THORNTON:

Q. Tell me, sir, how many seats on the School Board should black citizens hold?

[78]

A. I believe that the population of Bossier Parish is such that it is sufficient enough to elect at least two blacks to the Bossier Parish School Board.

Q. Do you believe that this is true because of the proportion of the black population to the entire population?

A. When we look at the number of the seats on the Bossier Parish School Board, taking into consideration the total population of the parish, I feel that to be the case.

Q. All right. Now, I want to show you something, Mr. Price, and ask you some questions about it. Do you have your narrative statement in front of you?

A. I do.

MR. THORNTON: I am not sure that I have his latest one right here. May I approach the witness and coordinate?

THE COURT: Of course.

THE WITNESS: What page was that?

MR. THORNTON: Well, let's see, it was on page twelve, and it appears to be twenty-three, paragraph twenty-three.

THE WITNESS: That is not it. Do you have a current—is that my testimony that you have?

MR. THORNTON: Yes.

THE WITNESS: It is April 7th. You need to get the updated copy.

MR. THORNTON: While he is trying to get that I [79] will go on and save some time.

BY MR. THORNTON:

Q. Mr. Price, when you asked to have some participation, or wanted some participation in drawing the redistricting or reapportionment plan for the School Board, you wrote some letters, did you not?

A. That is correct.

Q. And I think that those letters are exhibits here?

A. Right.

Q. All right, sir. And I think that you have a complaint that they were not answered, or that you were not allowed in on the reapportionment planning, is that correct.

A. No, sir. That is partially correct. Initially, I wrote a letter to the superintendent in March of 1992 requesting information concerning the upcoming reapportionment process, and that we would want to be made aware of the status of the reapportionment process.

As I communicated with the Bossier Parish School Board, I always did that in a written form, and I always asked that they would respond in a written form, because in the past I had been made aware of people not remembering communications by telephone or by hearsay. So I have always communicated in a written

form, and I have always asked them to respond in a written form. That was not done.

Q. What kind of participation did you have in mind?

[80]

A. I wanted to be involved to present what I considered the minority views on the current makeup of the School Board which consisted of twelve white members, and the fact that we felt as though we needed a voice on that particular School Board.

Q. All right. Did you want to have a vote in the reapportionment?

A. No, sir. As I indicated in my correspondence to the School Board, we always respected the authority of the School Board, and we always asked that we work through the School Board.

Q. Did you want to have a right to sit in the executive sessions with them when they talked about this problem?

A. No, sir. All of my communications was through School Board members. I never considered myself capable or able or authorized to sit in any kind of executive sessions with the Bossier Parish School Board.

Q. So the participation that you had in mind then was the participation or the right to tell the School Board the views that you had and wanted to see them adopt, is that right?

A. Again, partially correct. Counselor, I wanted to tell them the concerns and the desires that existed in the minority community. I wanted to tell them how the minority community felt about the issues of the Bossier Parish School Board.

[81]

Q. All right, sir. Now in any public School Board meeting, as I recall you can sign a book outside which indicates that you want to speak to the board, is that correct?

A. That is correct.

Q. Now, sir, during this period of time during this redistricting, did you ever appear before the School Board?

A. I appeared before the School Board on numerous occasions, and again, I want to emphasize that we initially requested this in March of 1992, and that the reason why we requested this was to have a written response from the School Board so that when these meetings were held our presence and our presentations would be a matter of record.

Q. Well, did you get to make those presentations?

A. We always had an opportunity to go before the School Board, and—

Q. Well—

A. I am sorry, go ahead.

Q. No, I interrupted you, Mr. Price, I am sorry.

A. Okay. Yes, we went before the School Board, and when we finished they would say, thank you, and they would go to the next agenda item.

Q. All right, sir. Did anybody ever deny you the right to address the School Board and present your concerns?

A. I have never been told that I couldn't speak.

Q. Let me ask you this. From time to time you have given [82] complaints about the school system to Superintendent Lewis, have you not?

A. Again, I have spoken with the superintendent on numerous occasions.

Q. And sometimes you gave him a written list of complaints, have you not?

A. Every presentation that I have made before the School Board, I provided the School Board with copies.

Q. I am asking you about Superintendent Lewis?

A. If I met with Superintendent Lewis, I gave him copies.

Q. One of your concerns has been that they didn't hire enough black teachers, isn't that correct?

A. That is correct.

Q. All right. Mr. Lewis tells me that he invited you to go along with them on one occasion when they were trying to recruit black teachers. Did you go?

A. When did he ask me?

Q. That is not true then?

A. I said, when did he actually—

Q. I am asking you. He told me that he had. I am asking you if that is not so?

A. Well, may I explain when he asked me?

Q. Oh, sure.

A. He asked me after several presentations before the School Board, several written pieces of communication before [83] the School Board, and he asked me to go with the School Board on a day in which—I am fully

employed, and I couldn't go. Yes, he asked me to go with them.

Q. All right. Now, is it true that you requested of Superintendent Lewis that more black teachers be assigned to predominantly black schools to provide role models for the young students?

A. If you will excuse me for a second. I am looking for exactly what I requested, because it was in writing. I requested that—in item D of a presentation that I made to the School Board, the development of a reassignment and a transfer program to insure parity or equalization of minority teachers at all schools. That is what I asked for.

Q. You didn't talk in terms of assigning black teachers to black schools as role models?

A. No, sir. I have always advocated black teachers to be in these places for children to communicate with and be there. I don't hold the perception that blacks are the only persons that should have role models. I believe that role models are important to all people.

Q. Thank you, Mr. Price, but really what I am asking is, did you in any way indicate to Superintendent Lewis that you would like to see more black teachers assigned to predominantly black schools as role models. That is all that I am asking you.

[84]

MR. BORKOWSKI: I would object that the question has been asked and answered.

THE COURT: Once more.

THE WITNESS: All right. What I Superintendent Lewis in a conversation that we had—we have several

schools in Bossier Parish with no black teachers. I asked that those teachers could be reassigned so we could at least have black teachers at every school. That is what I asked as eluded [*sic*] to in my statement here.

THE COURT: All right. Anything else?

MR. THORNTON: Yes, sir.

THE COURT: All right.

MR. THORNTON: Not on that though. I am finished with that line of questioning.

THE COURT: All right. What else do you want to know?

BY MR. THORNTON:

Q. Well, I want to direct you to your narrative statement on paragraphs twenty-five and twenty-six. Do you have it before you?

A. I sure do.

Q. All right. Let me read twenty-five, and you follow me and tell me if I read it incorrectly. Twenty-five: It is a widely held perception in the African American community of Bossier Parish that it is pointless for any African American [85] who will stand up for the interest of the black community to run for office.

MR. THORNTON: That is paragraph twenty-five Your Honor, I am sorry.

THE COURT: I have got it.

BY MR. THORNTON:

Q. The perception is based on the knowledge of the population breakdown of the election districts, all of which are majority white, and knowledge of the dynamics between blacks and whites in the parish, specifically

the wide-spread belief that most whites will not vote for a black candidate. In addition, there is a majority vote requirement in Louisiana elections.

Number twenty-six: Only three African Americans have been elected to significant political offices in Bossier Parish from majority white electoral districts. Johnny Gipson was elected to the Police Jury in 1975 [*sic*]. He had a reputation for speaking out about issues of concern to the African American community.

He served one term, being defeated in 1983 by Jerome Darby, another African American who has been reelected twice since 1983. In addition, Jeff Darby, his brother, was formerly a member of the City Council of Bossier City, but was defeated by a white candidate in the last election.

Neither of the Darby brothers is a member of the NAACP [86] or the Concerned Citizens Association, nor has either brother attended meetings or associated with either organization—with either organization in any way.

It is a widely held perception in the African American community of Bossier Parish that the only way that an African American can have a chance to get elected from a majority white district in the parish is by keeping a low profile with regard to racial issues, and not belonging to or being associated with organizations such as the NAACP or the Concerned Citizens.

Let me ask you some questions about those statements.

A. And I would like to just make the statement that I stand by every word of that.

Q. Good, good. Now, Mr. Price, do you think that race ought to be an issue in an election?

A. Sir, I don't think that race ought to be an issue, but you and I both know it is.

Q. You are speaking for the black community, Mr. Price. Please don't speak for me.

A. Well, I can only assume that you are aware of how things are in America.

Q. Mr. Price, is it your idea that a black who is elected to office ought to represent only the blacks in his constituency?

A. No, sir.

[87]

Q. Do you condemn the Darby brothers—

A. No, sir.

Q. —for not making race an issue?

A. No, sir.

Q. And yet I would treat your account of this as being very critical of them for not being—or standing up, as you put it, for black citizens?

A. I haven't seen any in my statement—

THE COURT: Objection sustained.

THE WITNESS: I haven't seen anything in my statement that mentions race.

THE COURT: He objected. I sustained the objection. He stood up and objected.

MR. THORNTON: I didn't hear anything.

BY MR. THORNTON:

Q. The only way that an African American can have any chance to get elected from a majority white district is by keeping a low profile with regard to racial issues. What did you mean by keeping a low profile, of not making race an issue?

A. I believe that it is identified in that statement as I said, by speaking out on racial issues, or being members of the organizations that are identified in the statement.

Q. Mr. Price, you stand by this statement you said, every word of it?

[88]

A. Yes, sir.

Q. All right, sir. Mr. Price, when you have made any sort of complaints about the school system, had Mr. Lewis always accepted what you gave him?

A. Mr. Lewis has always accepted what we gave him, but not yet responded to what we gave him.

Q. Well, did he explain to you the problem as he explained to the court of trying to hire more black teachers? Is that the first time that you ever heard his explanation?

A. No, sir, it is not. But we went before the School Board and presented a list of concerns from the black community. We asked that they respond to those concerns. After several weeks of no response, we went back again and asked what happened to those concerns?

They asked us to provide a list of solutions to our own concerns, or to give them some ideas of how these things could be done. We did that after much research. We did that. We submitted what we considered partial solutions to our concerns, and that did include a recom-

mendation on how to recruit more black teachers. Yes, sir, we did that.

Q. All right, sir. Let me ask you what was your solution? You have Superintendent Lewis in the back, and I know that he is retiring, but tell him, tell the court what you want him to do that he hasn't done?

A. Again , counsel, I want to make clear of what I am [89] saying. I am saying that as we went before Bossier Parish School Board, we always submitted suggestions and concerns. We never submitted goals. In my statement we identify what could be done—what, in our opinion, could be done to recruit more black teachers. Let me see if I can find it quickly.

On page eleven of my testimony. The main areas of concern about school operations are as follows. Develop an early recruitment for black teachers, diligence in recruiting, hiring, retaining, and promoting African American teachers.

Those were our concerns. Let me see if I can find our solutions—our recommendations rather. I am not able to find it, but I believe that it is a matter or record. If I could have—

Q. Let me just ask you this—

A. Just a minute. I have them here. I have them here.

THE COURT: What page?

WITNESS: Suggested solutions in my testimony, sir.

THE COURT: Page and paragraph what?

THE WITNESS: I don't see a number on there.

MR. BORKOWSKI: Your Honor, that is at twelve A.

THE COURT: Thank you.

THE WITNESS: I said the Coalition of Bossier [90] Parish, Concerned Citizens of Bossier Parish, Men's Club, Concerned Citizens of Plain Dealing and Bossier Parish Branch and NAACP suggested solution to our concerns to Mr.—

MR. THORNTON: Wait a minute. I am still looking for that. That is exhibit what?

THE COURT: They are not labeled as exhibits in the attachments to the statements furnished the court.

MR. THORNTON: Can you show it to me?

MR. BORKOWSKI: Yes, sir, absolutely.

THE WITNESS: Counselor, this suggested solutions to our concerns was addressed to then President Barry Musgrove, and this information or response is provided to you as a follow up to our presentation on July the 15th.

The Executive Committee of Bossier Parish Branch of the NAACP, and other organizational leaders, met on July the 20th, 1993, to discuss the best method of previous recommendations to you that we feel will improve certain areas of our school system.

We hope that the recommendations contained herein will assist you, Superintendent Lewis, and other School Board members in formulating solutions to our concerns. And then we went on to name our recommended solutions.

And in item two the issue of teacher recruitment concerns us greatly. We feel strongly that additional ef-

forts can result in the placement of additional minority [91] teachers into the Bossier Parish school system. The following steps may help. Expand the area of recruitment to include—

BY MR. THORNTON:

Q. Mr. Price, let me interrupt you. We have it—the court and I have it before us.

A. Well, I wanted to make sure that you understood it.

Q. I think that the court has, too. Let me ask you some questions about them, unless the court wants you to read them all into the record.

THE COURT: No. They are already in the record as a part of his testimony—direct testimony. Sir, you don't have to read them again, because the court has them before it, unless you want to read it.

THE WITNESS: Well, sir, I wanted to point out a couple of things.

THE COURT: All right. Why don't you do that, because this is an important matter for you and for all of us.

THE WITNESS: Yes, sir. And item G of this—on these recommendations, we ask the insurance that the School Board show compliance with the 1970 consent decree which requires a seventy-five/twenty-five high end ratio until requirements are met.

Currently, we are not in compliance with that [92] requirement by the courts, and that simply meant that for every hundred teachers hired for Bossier Parish, twenty-five should be black, and seventy-five should be white, until the School Board was in compliance with

the consent decree, and that is why we were very concerned about that issue as we present it in this particular document.

BY MR. THORNTON:

Q. Now, Mr. Price, let me ask you about this. You heard Mr. Lewis this morning, did you not, answer the court's questions about how he goes about trying to recruit black teachers?

A. Yes, sir. He said that he goes to Grambling and Louisiana Tech.

Q. Well, I think that he talked about LSU as well, did he not?

A. But as you notice in our recommendations, we included some of the southern black—predominantly black colleges in the State of Louisiana such as Southern in Baton Rouge, Xavier, and Dillard in New Orleans, and we expound on that, and we made some recommendations on how that could be done.

Q. You think that he is not going to enough schools, is that it?

A. Yes, sir. This document, I think, speaks for itself.

Q. He also talked about the difficulty of hiring because of salary gaps with neighboring parishes. Do you think that [93] that is a concern?

A. Well, we have talked about that even before the School Board. Now, my concern is the dilemma there. If whites have—

THE COURT: Wait a minute, your concern is what, sir?

THE WITNESS: I have a dilemma with his explanation of why he can't hire blacks. Your Honor, there is

no problem to hire white teachers in Bossier Parish, and I asked the question at the School Board meeting, are you all paying them different? Do white teachers make more than blacks? He said no.

I said, well, why don't you have a problem if salary is a problem hiring black—I mean white teachers. You always have white teachers. He said, well, I don't know. But the question still remains, if the salary in Bossier Parish is low, why is there no problem recruiting white teachers, only black teachers?

And what I have been told by black teachers is that the reason why they don't come to Bossier Parish, they cannot get promoted. They are not treated fairly in the system, and they have to leave, because they come in and see white teachers come in that they know received certification after them, and they rise to higher positions in the system, and the blacks that have been there do not get those [94] opportunities, and they seek them elsewhere. That is one of the things that we have expressed as a concern.

BY MR. THORNTON:

Q. Well, Mr. Price, if that is true, then shouldn't motions and petitions have been filed in the *Lemon* case to protest that?

THE COURT: Mr. Thornton, how can—this is a lay person. He may be a leader in the community, and nobody doubts that—and nobody doubts that, I don't think. At least the court doesn't doubt it.

THE WITNESS: Thank you, Your Honor.

THE COURT: But he is not supposed to pursue everything in the world through the courts or whatever, is he?

MR. THORNTON: I think he is.

THE COURT: Well, maybe you do.

MR. THORNTON: They certainly have attorneys to do that.

THE COURT: I don't know whether they do or whether they don't. The issue in this case is whether the Attorney General of the United States properly denied preclearance of the districting plan for the election of School Board in 1993 for the Bossier Parish.

That is the issue. It doesn't have anything to do with whether he has filed a motion to supplement the record, [95] or to intervene, or to get some further relief in a school desegregation case. That doesn't have anything to do with that, does it?

MR. THORNTON: Your Honor—

THE COURT: Does it? Does it?

MR. THORNTON: Well, with all due respect to the court, yes, it does.

THE COURT: All right. Thank you very much. If it does, I will take your word. You can say that it does, and you can give me a memorandum showing my why. All right, next question.

MR. THORNTON: All right, sir.

BY MR. THORNTON:

Q. Do you think, Mr. Price, that the disciplinary system falls more heavily on black students than on white students in Bossier Parish?

A. Without question it does.

Q. Have you ever attended one of those hearings?

A. I have had numerous members of the NAACP request that I go, and I have been asked not to come on some occasions by some of the School Board people, that they could handle and resolve that issue. I have not attended a School Board hearing with any parent.

Q. Is it your testimony that you have been told that you have been discouraged from attending any of those hearings, [96] and if so, by whom?

A. By School Board officials.

Q. By whom?

A. By Joshua Bryant. By the personnel man in Bossier Parish, oh, what is his name?

Q. What reasons did they give you?

THE COURT: Well wait a minute. Let him think. Don't jump on him.

THE WITNESS: That they would resolve the issue. That they would resolve the issue. And might I say in my opinion, and I am speaking from my opinion now, that these issues are things that they would rather not have public concerning the treatment of the students in the system, so they would refrain from any opportunity of making allegations of mistreatment of students, especially black students, a public issue. And they will tend to resolve that.

BY MR. THORNTON:

Q. And the people who told you this, were they black or white?

A. They are black.

Q. All right. You heard Mr. Lewis outline the procedure for disciplinary action in the Bossier Parish School Board. Do you think that that is a fair system?

A. It may have the mechanisms in place to be a fair system, but again, my opinion is that it is not a fair system.

[97]

Q. How would you make it more fair?

A. Well, I would certainly have people that have legitimate concerns and complaints heard, and I would certainly look into—and let me just emphasize on what I am talking about here, too.

We went before the School Board and asked for statistics on expulsions, on disciplinary actions, on kids being put in the GASP program, on the low scores of black students, and they have told us that they don't keep those statistics according to race.

But yet we know that there is some differences between the number of black expulsions and retentions that they have in the system than there are as they apply to the white students. They told us that they do not keep those according to race.

Q. You are telling this court and me, under oath, that there are different standards for disciplining white from blacks in the Bossier Parish school district, is that what you are saying?

A. I am telling you my opinion, and my opinion is, yes, it is.

THE COURT: And that African American people, or students rather, excuse me, are treated more severely?

THE WITNESS: Yes, sir.

THE COURT: Than white people?

[98]

THE WITNESS: Yes, sir.

THE COURT: All right.

THE WITNESS: For the same offenses.

THE COURT: Correct. I understand your position and testimony.

MR. THORNTON: I have just a question or two, Your Honor.

BY MR. THORNTON:

Q. During the redistricting process, Mr. Price, do you know of any group representing any—or claiming to represent any group of people, black, or white, or so forth, who had any more participation in the plan and the reapportionment process than the Concerned Citizens or the NAACP?

A. Counselor, when you say participation, let me tell you what my definition of participation is. Participation to me is not coming to the board and presenting an optional plan and leaving. Participation is trying to find out what they can do as board members that were duly elected to represent us to address these concerns.

Nobody never came to us and sat down with us and said, what can we do as your elected board members to do something about your concerns? They let us make presentations, and as I said a few moments ago, after we made the presentation they said, thank you, and they went on to the next agenda item. Now, I don't know what you mean by participation. I don't [99] consider that participation. I consider that coming and making a presentation.

Q. All right. Now, do you know of any other groups, any groups whatsoever, in which any School Board member went to see and asked about the redistricting plan?

A. I know that there was some people there from the Concerned Parents of Plain Dealing. I know that there was some people there from the Tenant Coalition, and I know that there was some people there from the Bossier Parish Voter League, all of whom the presidents of those particular bodies elected me as their spokesperson, and was in agreement with the letters and the documents that I presented. I don't know what else—how else I can answer you on that.

Q. Well, I guess the only question, Mr. Price, was in the participation. Do you know of any group that participated any more actively than your presentation, or who sat in on the meetings that adopted the reapportionment plans? If you do, tell us who they are?

THE COURT: What year are you talking about? 1991?

MR. THORNTON: 1992, 1993, and even into 1994.

THE COURT: Wait a minute. I am the Judge here. I have got to decide this case. Now, you are talking about a 1991 plan, or was there one in 1992, or just action on a 1991 plan in 1993? Now what are you talking about?

MR. THORNTON: I am talking about the deliberations [100] of the School Board in 1992.

THE COURT: All right. That is different than 1991 and 1993. What did they do in 1992?

MR. THORNTON: And on into 1993.

THE COURT: What did they do? Did they adopt a plan during that period?

MR. THORNTON: They adopted a plan during that period.

THE COURT: The School Board?

MR. THORNTON: The School Board.

THE COURT: For election of its members?

MR. THORNTON: On the time schedule—I think it was in September of 1992.

THE COURT: All right.

THE WITNESS: October, October.

MR. THORNTON: October of 1992.

THE COURT: Thank you, sir. You are helpful.

THE WITNESS: Thank you.

MR. THORNTON: Do you want me to restate my question now?

THE WITNESS: Yes.

THE COURT: Well, we have got to keep it in focus, Mr. Thornton:

THE WITNESS: Yes.

BY MR. THORNTON:

[101]

Q. Do you know of any group, any group of citizens, any private group, not the School Board members but any private group who sat in on the deliberations with the School Board when it was discussing the adoption of a reapportionment plan?

A. Let me reemphasize to you what happened. Again, the major black organizations in Bossier Parish elected me as their spokesperson.

THE COURT: You have said that.

THE WITNESS: All right. We came to these meetings and made presentations. We did not sit in on deliberations or decision making as the plan was adopted. We made presentations.

When the plan was voted on, the night that the plan was voted on, we had a map on display, as well as the Bossier Parish School Board had a map on display. After our presentation at the public hearing, they moved on to adopt their plan.

Now, I don't know what you mean by participation. You keep using that word, but I have a difference—a different idea of what participation is and what presentations are.

MR. THORNTON: May it please the court, I know that I am taxing the patience and time of the court, but I am not getting answers to my questions.

[102]

THE COURT: Overruled. You may not be getting the answers that you want, but you are getting answers. So that is it.

MR. THORNTON: Well, in that case, Your Honor—

THE COURT: What else can you do about it? Nothing.

MR. THORNTON: I can give up I guess on this witness.

THE COURT: I believe that you could. It is your option.

* * * * *

Testimony of Appellant-Intervenors' witness George Price—Redirect Examination by Appellants

[102]

* * * * *

BY MR. BORKOWSKI:

Q. Mr. Price, after you sent this letter to the School Board asking to participate in the redistricting process, you weren't given any information, were you, about any work session that the School Board had with Mr. Joiner to look at options or work on a plan, were you?

A. No, sir. No response at all.

* * * * *

Testimony of United States Government's witness Jerome Blunt—Cross Examination by Appellee

* * * * *

[106]

* * * * *

BY MR. THORNTON:

Q. When you were on the School Board, Mr. Blunt, did you have much contact with Mr. Price or any of the other leaders of the black community?

A. I don't quite understand your question. When you say contact, do you mean at regular board meetings?

Q. No, sir. I mean outside of board meetings. Were you close to those groups?

A. No. I would say no, I wasn't close.

Q. Did they ever talk to you at all about their concerns in the school system?

A. At the board meetings, yes.

Q. How about outside of the board meetings?

A. No, they didn't.

Q. They didn't ask you, for example, to go to the superintendent and talk about hiring black teachers?

A. No.

Q. They didn't come to you as a black School Board member and ask you to look into the disciplinary mechanism in the school system?

A. No.

Q. They didn't come to you and ask you about assigning black teachers to black schools as role models?

A. No.

[107]

Q. Why do you think that they didn't do that, Mr. Blunt?

A. My personal opinion on that, Mr. Thornton, is that Mr. Price and the coalition have been fighting this fight for a long time. They had information that—they are long-time Bossier residents, so they knew the ins and outs of the school system, and they knew, in fact, what the minority community wanted and needed.

Q. But you were sort of an insider at that point, sort of on the School Board?

A. That is right.

Q. I would have thought that they might want you to lead or to pinpoint their concerns within the school administration. They didn't ask you to do that?

A. No. I would like to explain that answer. The African community in Bossier Parish is concerned about various things in the school system, but also we have our own things that we are concerned about now.

My role as a School Board member was to represent District K, the district that I was concerned [*sic*]. Now, I was also concerned about all of the members of the parish also, too. As a School Board member then, my concern is the entire parish and my district.

Q. Did you consider, then, that you really represented the whole constituency, and you were interested in the betterment of that district and the School Board system, is that [108] correct?

A. Absolutely.

Q. You didn't think that you just represented blacks, you thought that you represented everybody, is that correct?

A. That is correct, but I would like to expand on that answer.

Q. All right, sir, by all means?

A. Okay, I represented the whole school system. I think that that is foremost. But when there is a population that seems excluded, that does not seem that they are a part of the system, then my role also as a board member is to look into those concerns and to talk with those people about those things.

Q. And did you?

A. I was aware of those things at the board meeting. When I was on the board, a lot of those things were already in place. As Mr. Price had talked to earlier, he had asked to be on the process early in 1992. My appointment started in September 1992.

* * * * *

[109]

* * * * *

Q. When you ran for reelection, did Mr. Barry Musgrove give you any assistance in running?

A. I asked Barry Musgrove, and he gave me some information, but when I asked for support from my fellow colleagues as an incumbent, all of them were basically afraid to come out and say that I am supporting Jerome Blunt, because they were worried about the persecution if they—of their constituents maybe, and the persecution of the person who maybe would replace me.

Q. In other words, they didn't take a real active part, but they did—Mr. Musgrove gave you some advice, did he not? I mean—

A. Yes.

[110]

Q. I mean seemed friendly to your campaign?

A. Yes.

* * * * *

Testimony of Appellant-Intervenors' witness David Creed—Cross Examination by Appellee

[115]

* * * * *

BY MR. THORNTON:

* * * * *

Q. You say that it has been a common practice in Louisiana to cut and split precincts?

A. Yes, sir. To my knowledge, and I am confident that that is true.

Q. Oh, I think it is. And there is a state law that you are aware of, are you not —

A. Yes, sir.

Q. — that prevents that?

[116]

A. Act 925, that is right.

Q. But the Police Jury sometimes accommodate other subdivisions by splitting precincts?

A. Yes, sir. And all of the cases that I know about they have accommodated.

Q. Do you know of any law, or have you been told of any court decision or any law that says that a Police Jury can violate or set aside the state law for these purposes?

A. Well, I —

MR. BORKOWSKI: He is assuming facts that are not in evidence.

THE COURT: Overruled. I will let him answer.

THE WITNESS: Am I aware of any laws at all?

MR. THORNTON: Yes.

THE WITNESS: That would allow —

BY MR. THORNTON:

Q. My question, Mr. Creed, is when you are doing these, you don't know—or do you basically know whether what you are doing is legal in Louisiana or not?

A. I believe that it is legal, yes, sir.

Q. All right, On what basis do you believe it?

A. Because I have found nothing in the law that it violates any laws anywhere, and because I have done—counting the one that I am working on now, I have done —that makes fifteen, and they have all been precleared, and accepted, and [117] elections have been held, and people now hold their positions, and I guess that I am assuming that it is legal.

Q. You are assume [*sic*] that it is legal?

A. Yes, sir.

Q. All right. Now then, you state some opinions about gerrymandering?

A. Yes, sir.

Q. And your opinion is that this—well, not this plan, but the plan that was—the plan that the Bossier Parish School Board presented and is before this court, you are saying that that is a gerrymandered plan?

A. No, sir.

Q. Well, are you saying that Mr. Cooper's plan is gerrymandered?

A. No, sir.

Q. So you see no gerrymandering at all?

A. Everyone seems to have a different definition of gerrymandering here.

Q. What is yours?

A. My definition—it is in my written testimony, but generally that you would take a geographical area and draw an area in order to create a district for an elected body that would take all kinds of twists and turns and be what I said was tortuous and convoluted in order to arrive at whatever goal it might be that you are trying to arrive at in drawing [118] the districts. That is gerrymandering to me.

Q. Would gerrymandering be the opposite of sound demographic principles?

A. It would not be consistent with sound demographic principles.

Q. All right. If you have sound demographic principles and use them, you would not have a gerrymandered district, would you, is that fair enough?

A. That is fair.

Q. And you don't find that there is gerrymandering in any of these plans?

THE COURT: Which plans? Any of—there are so many that we are talking about here, I want to know which ones you are asking about?

BY MR. THORNTON:

Q. The School Board, and have you seen the Cooper two plan?

A. I understand that there is a NAACP plan. I have not seen that plan.

Q. All right. You have seen the Cooper plan?

A. I have seen one called the Cooper plan.

Q. And you have seen the one that we call the Police Jury plan that is before this court?

A. Yes, sir.

Q. And you find no gerrymandering in either of those?

A. I find it to be about the same as most of the plans that [119] I have seen developed and approved.

Q. All right, sir. I had one other question and it slipped my mind. Just a moment. Oh, the question was, sir, in all of the precinct splitting of plans that you helped to get to preclearance, what is the largest number of precincts that you have ever split?

A. Eight.

Q. No more than eight?

A. No, sir.

MR. THORNTON: No further questions, Your Honor.

THE COURT: When did you draw—no further questions.

MR. THORNTON: From me.

THE COURT: Do you have any?

MR. BORKOWSKI: No, Your Honor.

THE COURT: Are you finished?

MS. HUME: Yes, Your Honor.

THE COURT: All right, Mr. Creed, let me ask you a question.

THE WITNESS: Yes, sir.

THE COURT: You say that you have in the course of your work over the last fifteen years I gather —

THE WITNESS: Yes, sir.

THE COURT: —have drawn a large number or a substantial number of boundaries, geographical boundaries for [120] the election of various entities or political –

THE WITNESS: Yes, sir.

THE COURT: — groups?

THE WITNESS: Right.

THE COURT: Throughout the State of Louisiana?

THE WITNESS: Throughout northeast Louisiana is where—I am located in Monroe Louisiana, and Louisiana has eight planning and development districts which cover the state, and the one that I am the director of covers the northeastern part of the state. And like I said, I am in Monroe. The ones that I have done have been in that part of the state.

THE COURT: Is that the same part that we are talking about here?

THE WITNESS: No. sir. That is the northwestern part.

THE COURT: All right. Mr. Thornton told me that yesterday. Were you here yesterday?

THE WITNESS: Yes, sir.

THE COURT: Did you hear the testimony that there is a Louisiana state law that says that you can't modify or cut across precinct lines?

THE WITNESS: Yes, sir.

THE COURT: Under Louisiana state law in order to accomplish and establish a redistricting plan?

[121]

THE WITNESS: Yes sir. I have a copy of the law.

THE COURT: How many times have you had to do that in the course of your work, cut across or split up a precinct, an existing precinct line?

THE WITNESS: In order for School Boards, I have done it three times.

THE COURT: All right.

THE WITNESS: But for municipalities I would have to count them up. I would say about five or six times.

THE COURT: And the same Act 925 applies to municipalities as it does to School Boards, doesn't it?

THE WITNESS: I don't think it does.

THE COURT: Or does it?

THE WITNESS: I don't think that it does.

THE COURT: All right. What about Police Juries?

THE WITNESS: No, sir. I think that it only applies to School Boards, and in large Police Juries, it is a technical question or interpretation as to are they splitting or creating precincts, because once they do the splitting in—

THE COURT: Who is they?

THE WITNESS: The Police Juries. Once a Police Jury in its own reapportionment effort splits precincts and then by legal description, and by mapping, and by ordinance creates this new plan, then they have created new precincts. [122] So they have split, but they create at the same time. I hope that I am making myself clear.

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Testimony of Appellant-Intervenors' witness Thelma Harry – Cross Examination by Appellee

[132]

* * * * *

BY MR. THORNTON:

Q. Ms. Harry, how many seats do you believe that the black [133] community should have on the Bossier Parish School Board?

A. I would like to see them have three.

Q. All right. And why do you think that they should have three?

A. Because there are twelve now, and if you have three, we could depend on at least two to get some of our concerns through.

THE COURT: Two out of twelve would be able to do it?

THE WITNESS: Well, I want a back-up system.

BY MR. THORNTON:

Q. Do you think that the seats should have any relationship to the black proportion of the population?

A I do.

Q. Have you been told that by anyone?

A. No. That is my own function.

* * * * *

Testimony of United States Government's witness Johnny Gipson—Cross Examination by Appellee

[138]

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BY MR. THORNTON:

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Q. Wait a minute, let me finish my question for the record. On the School Board, how many seats do you think that the black community ought to have? Now go ahead.

A. At least two, based on the population given, about two.

[139]

Q. Based on what, sir?

A. On the population, two.

Q. The percentage of blacks of the population?

A. Yes.

* * * * *

Testimony of United States Government's witness Jeffrey Dewayne Darby—Cross Examination by Appellee

[145]

* * * * *

BY MR. THORNTON:

Q. Mr. Darby, how many seats do you think that the black community deserves to have under the Voting Rights Act on the Bossier Parish School Board?

A. Sir, unrealistically I wish that we had six. But realistically, two.

Q. And why two?

A. To represent the population of Bossier Parish, the minority population.

Q. Because that is their proportion to the entire population?

A. (Nodding head.)

Q. You have to speak out, sir.

A. Yes, sir.

Q. Mr. Darby, remind me, I couldn't find it right quickly. When did you run for the City Council?

A. 1989.

Q. And you won that seat, did you not?

A. Yes, sir.

Q. Was that from a predominantly white district?

A. Yes, sir, it was.

Q. What was the racial composition of that district?

[146]

A. Approximately twenty-two percent minority, and the rest majority.

Q. Seventy-eight or something like that?

A. Um-hum.

Q. And how many votes did you win by?

A. Approximately thirty votes.

Q. Did you make a race issue?

A. No, sir.

Q. Did you make—as an issue did you make the concerns, or what we would call the real issues of the election a part of your campaign?

A. I am not understanding your question.

Q. Well, I am not saying it very well, either. The issues of the campaign, were they—other than racial, I mean what the community ought to do, what the Police Jury ought to do about the problems, the sort of issue, is that what you ran on?

A. Yes, sir, pretty much.

Q. Okay. And in the meantime, after you had been elected, but before you ran again, the City Council changed their districts, did they not?

A. Yes, sir.

Q. That was after the Police Jury had changed its districts?

A. Yes, sir.

[147]

Q. And you were not, I think, happy with the district which—or which was drawn around your residence?

A. This is correct.

Q. But you ran and you lost, did you not?

A. Yes, sir.

Q. Lost to what, Mr. Swayer [*sic*]?

A. Right.

Q. Who was white?

A. Yes, sir.

Q. And how many votes did you lose by?

A. Between fifty and fifty-eight.

* * * * *

Testimony of United States Government's witness Dr. Richard L. Engstrom—Cross Examination by Appellee

[151]

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BY MR. THORNTON:

* * * * *

Q. You have told us in your declaration what methodology you used to come to the conclusions that you came to, and the conclusions appear to be, sir, that in your opinion people in Bossier Parish vote by race, is that correct?

A. I believe that the conclusion is that in the election[s] that I have studied, there is evidence that voters divide along racial lines.

Q. Okay. I stand corrected. Is that a fair statement, what you are telling us?

A. In the elections in which I was—I believe I was able to determine candidates of choice, that tends to be the case, yes.

Q. Okay. I want to ask you some questions about this study that you made of Bossier Parish. How many times have you been to Bossier Parish?

A. Oh, I don't know the total number, but it wouldn't be very many.

THE COURT: What do you mean by that?

THE WITNESS: Maybe two or three times, not connected to the study.

[152]

THE COURT: What did you do there?

THE WITNESS: Went to a famous barbecue restaurant I remember the last time.

THE COURT: In Shreveport?

THE WITNESS: In Bossier City. I was in Shreveport and specifically went to Bossier City for barbecue. I did not go to Bossier Parish for the purpose of the study, and I am from New Orleans, so I am not up there too often.

BY MR. THORNTON:

Q. Of any of the political contests that form a part of your study, I want to ask you some questions about them. Did you ever talk to any of the candidates?

A. For the purpose of the study?

Q. Yes?

A. No.

Q. Did you ever make a study of what the issues of the political –

THE COURT: Wait a minute, you didn't get an answer to the first question. Did you ever talk to the candidates?

MR. THORNTON: I think he said no.

THE COURT: Oh, I didn't hear.

THE WITNESS: Not for the purpose of the study. I have met some since and I have talked with them, but not prior to preparing this, nor for the purpose of preparing this study.

[153]

THE COURT: All right. I am sorry. I didn't hear you.

BY MR. THORNTON:

Q. Do you know what the issues, campaign issues were, in any of those elections that you have talked about?

A. No, I do not.

Q. Did you make any study of what kind of campaign organization each of the candidates might have put together?

A. No, I did not.

Q. Did you have any idea of how much money they might have had in their political coffers to get across their programs?

A. No, I did not.

Q. Do you happen to know whether any of them had debates at a public forum and a face-to-face confrontation with the public?

A. No, I do not.

Q. Did you happen to know anything about the backgrounds of any of those candidates in terms of political experience or education?

A. Not for the purpose of assessing racial divisions and voter candidate preferences, no.

Q. All right. Ought those factors that I have asked you about, and other factors, don't they sometimes have some sort of impact on the outcome of political campaigns?

A. There are all sorts of things that can have an impact on [154] the outcome of political campaigns. I was addressing a specific research question, did African

American voters and non-African American voters in these elections, in which they were given a choice, between or among African American and white candidates, have different candidate preferences, and to answer that question, I don't need to do all of these other things that you are asking me about.

Q. All right, sir. Tell me this, then. Have you ever examined any parish in Louisiana, or any county anywhere in the United States, in which racial preference doesn't have some impact on the outcome of the election?

A. I can't recall doing—I mean doing an analysis of one in which there wasn't some impact, in which voters didn't divide along racial lines, certainly, to some extent.

Q. You have a doctor of philosophy in the field of political science, do you not?

A. That is correct.

Q. And so within your area of opinion, do you have any benchmark in which you can compare Bossier Parish with any other parish or county as to whether racial preference affects the outcome of political campaigns?

A. Well, I haven't been asked to make that comparison, so I haven't come up with a benchmark, and I haven't even thought about what the benchmark might be if I needed one.

Q. Well, if other parishes and other counties allowed [155] racial preference to have impact on election results, and you tell me that Bossier also has, how have we advanced human knowledge by that fact?

A. Well, I don't know if we have advanced human knowledge through my study. It may be very well that the people in the audience find that I have documented the obvious in this analysis, that African American voters in Bossier Parish vote for African American candidates usually when given that choice, and white voters do not. I mean I don't know that I have advance knowledge, but those are the results of my studies.

Q. But you don't know any other area that doesn't have a certain amount of that, do you?

A. Well, I don't know what you mean by a certain amount of that, and I haven't studied all areas. Usually when I do these types of analyses, it is in the areas in which there are voting rights issues. So it is not uncommon to find this. In fact usually this is the case.

Q. Well, you are a political scientist. Isn't it true that sometimes Catholics won't vote for Protestants?

A. Excuse me, Catholics will vote for Protestants?

Q. I say—listen to me, Doctor.

A. Okay.

Q. Isn't it true that in—just in your experience, and certainly in your area of academic excellence, isn't it [156] sometimes true that Catholics don't vote for Protestants, or Protestants don't vote for Catholics?

A. Oh, I suppose that that is sometimes true. However, not anywhere to the extent that we have racial divisions. Race is the major demographic variable in American politics.

Q. Everywhere —

A. There is no other division in American politics that even comes close to it.

Q. Everywhere —

THE COURT: Did you ever hear of Mayor Daley in Chicago?

THE WITNESS: Me?

THE COURT: Yes.

THE WITNESS: Have I heard him?

THE COURT: Have you ever heard of him, I said?

THE WITNESS: Senior or junior? The current one or the previous one? I have heard of both.

THE COURT: Both.

THE WITNESS: Okay.

THE COURT: Did you ever hear of a man named Boss Hague in Jersey City, New Jersey?

THE WITNESS: Yes.

THE COURT: Did you ever hear what used to happen the Sunday before elections in every Catholic parish in Jersey City?

[157]

THE WITNESS: Well, I don't know for sure, but I assume that there was probably a visit to the church.

THE COURT: I said in every Catholic parish?

THE WITNESS: No.

THE COURT: It was a visit to the church. Did you ever hear what happened in those churches?

THE WITNESS: I guess that I have not heard that.

THE COURT: You haven't, and you have a Ph.D. from the University of Kentucky? No wonder they didn't win the basketball tournament this year. I just

thought of those two examples as a result of his questions. You have not heard of that kind of discrimination?

THE WITNESS: No. I mean I don't know what happened at Catholic parishes a week before elections, or the Sunday before elections in Jersey City, no.

THE COURT: You don't know anything about—

THE WITNESS: I am fairly familiar with Chicago, but —

THE COURT: What happened there?

THE WITNESS: When, before elections?

THE COURT: Yes. What happened in 1968 there, or late 1960 there?

THE WITNESS: I don't recall what happened in 1960.

THE COURT: All right. I was thinking about the presidential election in 1960.

[158]

THE WITNESS: Oh,

THE COURT: You are a political scientist.

THE WITNESS: Well, I mean—I assume at that point you are talking about late election returns being reported.

THE COURT: I am talking about the same subject that Mr. Thornton is asking you about, sir.

THE WITNESS: Whether Catholics vote for Protestants, or whether there are times when they don't? I mean—

THE COURT: Well, the question is there. I am not going to restate the question for you, sir. You either answer it or you don't answer it. I don't care. You do or don't.

THE WITNESS: Well, I thought you were asking if there were times when Catholics don't vote for Protestants, and I said that I suspect that that can be the case.

THE COURT: You don't know of any instance though, is that what you are saying?

THE WITNESS: When Catholics didn't vote for Protestants? Catholics voted for Kennedy in 1960, but not to the percentage, I don't believe, that we generally find African Americans voting for African Americans, nor were Protestants as opposed as we usually find along racial lines. I still maintain that race is a far more serious demographic [159] division in American politics than religion.

THE COURT: All right, sir, thank you. I hear your opinion.

BY MR. THORNTON:

Q. Doctor Engstrom —

THE COURT: Please don't misunderstand me. The court has no opinion on this. I am just asking you for your knowledge.

BY MR. THORNTON:

Q. As a political scientist, do you have an opinion as to whether or not separating races and focusing on the differences, and assigning black majority and white majority districts on the basis, say, of proportion in the population, do you have an opinion as to whether that

ameliorates and eases racial hostility, or would you think that it might increase or exacerbate hostility?

A. I believe that over time, if it provides African Americans with an opportunity to elect candidates of its—of their choice, I think that it will ameliorate it. I think that as we see African Americans elected to public office, and serving in public office, some of the fears of white voters will recede, and the horrible things that they may expect to result from the elections of blacks, at least among some white voters, will recede into the background, and we will probably, at that point, hopefully in the future, begin [160] to have elections that are driven less by race.

* * * * *

Testimony of United States Government's witness Dr. Richard L. Engstrom—Redirect Examination by Appellants

[166]

* * * * *

BY MS. HUME:

Q. Doctor Engstrom, when Mr. Thornton was asking you about whether you conversed with the candidates, and visited the parish, knew anything about the campaign issues, is it a standard practice in your area of expertise and its statistical methodology in analyzing electoral behavior to look at these kinds of factors in your study?

A. It would depend on the research question being addressed. If one is trying to do a causal analysis of why voters vote the way that they do, then one would certainly go on and look at other variables.

But if one is simply addressing an empirical question, do African American voters and non-African American voters have different candidate preferences, then that is not the appropriate analysis.

You simply look at the voters, and the way that the votes have been cast, and using the best available data that you can obtain, see if there are indications of whether you can identify those candidate choices, and whether they are different.

* * * * *

Testimony of Appellant-Intervenors' witness William S. Cooper—Cross Examination by Appellee

[177]

* * * * *

BY MR. THORNTON:

Q. Now listen to me very carefully. In Cooper one and Cooper two, was your motive in drawing those districts as you drew them, and splitting the precincts as you have described, were you trying to draw it in such a way that there would be two majority black districts?

A. I was asked to assess whether or not it was possible to create two majority black districts using traditional redistricting criteria, and yes, that was the result.

Q. That was your instructions?

A. Right.

Q. All right.

THE COURT: What are the traditional criteria in [178] your view?

THE WITNESS: Well, in my opinion the three fundamental criteria are one person one vote, making sure that the deviation for a particular district does not exceed five percent, assuring that a district is contiguous. In other words, that all pieces are joined together.

And finally I think in an area where there is a significant minority population, you have to follow the Voting Rights Act and produce a majority black district, providing that it can be done. There are places where it cannot be done, but in the case of Bossier Parish I believe that it could be done there.

THE COURT: Is there anything about compactness?

THE WITNESS: Compactness is a very fuzzy term. I try to make the district as shapely as possible, but in point of fact you are frequently dealing with oddly shaped jurisdictional boundaries, oddly shaped municipal our county boundaries, I should say, oddly shaped precincts.

The distribution of population can be kind of unusual, so that it is really very, very difference to look at a plan and signal out a district and say that it is not compact or that it is compact without knowing a little bit more about what is beneath the lines so to speak.

THE COURT: So the court's use of the words compactness are not necessarily correct?

[179]

THE WITNESS: Well, I think that it is laudable goal, and I sort of know what compactness is, as we sort of know what beauty is and truth is, but it is very hard to define, and ultimately, I attempt to make a district as shapely as possible, as square and neatly bounded.

But I don't—I don't employ, for example, a measure of compactness to determine whether or not a district meets a certain compactness standard, nor do most governing bodies that I encounter. It is highly unusual to ever see a jurisdiction—in fact, I have never seen a jurisdiction produce a compactness measure as a part—as part of their redistricting process at the local level anyway.

* * * * *

WEST'S LOUISIANA STATUTES ANNOTATED
LOUISIANA REVISED STATUTES (1995)
TITLE 17. EDUCATION
CHAPTER 1. GENERAL SCHOOL LAW
PART II. PARISH SCHOOL BOARDS
SUBPART A. ESTABLISHMENT AND ORGANIZATION

§ 52. Election and qualification of members; term of office

A. There shall be elected by the qualified voters of each parish police jury ward, or the equivalent thereof, of each parish of the state a member of the school board of the parish for each police juror in said ward, or the members of a parish school board shall be elected by the qualified voters in accordance with the school board reapportionment plan then in effect as authorized by law, or the members of a parish school board shall be elected in accordance with any special law applicable to the board, as the case may be. Members of parish school boards shall be elected at the congressional elections. Members elected in 1986 and thereafter shall serve four-year concurrent terms beginning January 1 following their election.

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WEST'S LOUISIANA STATUTES ANNOTATED
LOUISIANA REVISED STATUTES (1995)
TITLE 17. EDUCATION
CHAPTER 1. GENERAL SCHOOL LAW
PART II. PARISH SCHOOL BOARDS
SUBPART A-1. REAPPORTIONMENT AND REORGANIZATION

[The following is from the 1982 Main Volume:]

§ 71.3. Procedure for accomplishing reapportionment; special election districts; effective date of same

A. Each of the parish and city school boards shall use the federal census of 1970 as the basis upon which to accomplish reapportionment, provided however, that each of said school boards may authorize the taking of a special census to use as a basis for reapportionment. To this end, each of said school boards may employ qualified firms to take such special census, and may employ such other consultants, attorneys, etc. as it deems desirable in order to assist such board in such reapportionment.

B. Each of said boards, after determining the number of member of said board after reapportionment is to be effective, may create such special school board election districts as it deems desirable, which districts need not be coterminous with, nor have any relation to, the wards or precincts that may be created by the police jury or cities or towns within and for said parish or city, but any such special school board election districts created as a result of this Subpart must be compact and contiguous. The board may provide that all or part of its members shall be elected from such districts and

may provide that one or more of its members may be elected at large from each of such districts.

C. Repealed by Acts 1980, No. 285, § 9, eff. July 14, 1980.

D. The special school board election districts provided for herein shall be for the purpose only of electing school board members and shall not be for the purpose of levying taxes or issuing bonds. The creation of such special election districts shall not affect existing tax or bonding districts and same shall remain in full force and effect as otherwise provided by law.

Added by Acts 1968, No. 561, § 1. Amended by Acts 1970, No. 319, § 1, emerg. eff. July 13, 1970 at 2:00 P.M.; Acts 1975, No. 432, § 1.

WEST'S LOUISIANA STATUTES ANNOTATED
LOUISIANA REVISED STATUTES (1995)
TITLE 17. EDUCATION
CHAPTER 1. GENERAL SCHOOL LAW
PART II. PARISH SCHOOL BOARDS
SUBPART A-1. REAPPORTIONMENT AND REORGANIZATION

[The following is from the 1995 Pocket Part:]

§ 71.3 Procedure for accomplishing reapportionment, special election districts; effective date of same

[See main volume for A]

B. Each of said boards, after determining the number of members of said board after reapportionment is to be effective, may create such special school board election districts as it deems desirable. These districts need not be conterminous with the wards that may be created by any governing authority, but any such special school board election districts created as a result of this Subpart shall be compact and contiguous. After January 1, 1984, the boundaries of such election districts shall contain whole election precincts established by the parish governing authority under R.S. 18:532 or 532.1. The board may provide that all or part of its members shall be elected from such districts and may provide that one or more of its members may be elected at large from each of such districts.

Amended by Acts 1982, No. 558, § 1, eff. July 22, 1982.

[See main volume for C and D]

E. (1) The boundaries of any election district for a new apportionment plan from which members of a

school board are elected shall contain whole precincts established by the parish governing authority under R.S. 18:532 or 532.1.

(2)(a) Notwithstanding the provisions of R.S. 17:71.3(E)(1) or any other law to the contrary, if a school board is unable to meet the federal guideline of plus or minus five percent deviation in the creation of its reapportionment plan through the use of whole precincts, the school board may, in the creation of its reapportionment plan, divide a precinct into portions which are bounded by visible features which are census tabulation boundaries. No such precinct shall be divided into more than two school boards districts. No school board district shall contain more than two divided precincts.

(b) The provisions of this Paragraph shall be applicable only in cases in which the number of members of the school board is not equal to the number of members of the parish governing authority of the parish in which the school board is domiciled.

(c) The provisions of this Paragraph shall not be constructed as authority for a school board which has adopted or accomplished reapportionment or is able to reapportion itself using whole precincts to divide precincts. Any plan adopted by a school board in contravention of this Subsection shall be null and void.

(d) The provisions of this Paragraph shall become null and void on December 31, 1992, unless a school board receives an objection letter to its reapportionment plan from the Department of Justice. In such event the school board shall use the provisions of this Paragraph to satisfy the objections of the Department of Justice if said objections would require a precinct to

be divided and the provisions of this Paragraph shall be null and void after such reapportionment is complete.

(3)(a) Notwithstanding the provisions of Paragraph (1) of this Subsection or any other law to the contrary, if a school board is unable to meet the federal guideline of plus or minus five percent deviation in the creation of its reapportionment plan through the use of whole precincts, the school board may create school board election districts that subdivide one or more precincts. No such precinct shall be subdivided into more than two school board districts. No school board district shall contain more than two subdivided precinct portions in addition to any whole precincts contained therein.

(b) The provisions of this Paragraph shall be applicable only in parishes having a population of ten thousand or fewer according to the latest decennial census and in which there are fifteen or fewer election precincts.

(c) The provisions of this Paragraph shall not be construed as authority for school board which is able to reapportion itself using whole precincts to subdivide precincts. Any plan adopted by a school board in contravention of this Subsection shall be null and void.

(d) The provisions of this Paragraph shall become null and void on December 31, 1993, provided that if the United States attorney general objects to the reapportionment plan of a school board operating under the provisions of this Paragraph, the school board may act under the provisions of this Paragraph to create a reapportionment plan to which the attorney general interposes no objection, if the plan would require one or more precincts to be subdivided. Following the

adoption of such plan, the provisions of this Paragraph shall be null and void.

Added by Acts 1992, No. 925, § 1. Amended by Acts 1993, No. 286, § 1, eff. June 2, 1993.

WEST'S LOUISIANA STATUTES ANNOTATED
LOUISIANA REVISED STATUTES (1995)
TITLE 18. LOUISIANA ELECTION CODE
CHAPTER 5. PRIMARY AND GENERAL ELECTIONS
PART II. ELECTION OFFICIALS
SUBPART A. GENERAL PROVISIONS

§ 425.1. Consolidation of polling places; reduction of voting machines and election officials

A. Notwithstanding the provisions of R.S. 18:424 and 425 or any other provision of law to the contrary, in an election, including the election of any public official, where more than one polling place is within the same location, the parish board of election supervisors may consolidate polling places in that location for that election and may reduce the number of voting machines to be used in the election below the number fixed by R.S. 18:1363 and, in such case, shall notify the parish custodian of voting machines and the commissioner of elections of the number of machines to be prepared and delivered for the polling places so consolidated.

B. When the parish board of election supervisors consolidates polling places as authorized by Subsection A of this Section, it shall appoint a commissioner-in-charge to serve at each such consolidated polling place and may reduce to not less than two the number of commissioners and alternate commissioners to be appointed to serve at each such polling place.

Added by Acts 1986, No. 705, § 1.

WESTS LOUISIANA STATUTES ANNOTATED
LOUISIANA REVISED STATUTES (1995)
TITLE 18. LOUISIANA ELECTION CODE
CHAPTER 5. PRIMARY AND GENERAL ELECTIONS
PART V. VOTERS AND VOTING
SUBPART B. PLACES FOR VOTING

§ 532. Establishing of precincts

A. Subject to the provisions of R.S. 18:532.1 and 1903, the governing authority of each parish shall establish precincts, define the territorial limits for which each precinct is established, prescribed their boundaries, and designate the precincts. The governing authority of each parish shall be ordinance adopt the establishment and boundaries of each precinct in accordance with the timetable as set forth herein and in accordance with R.S. 18:532.1.

B. (1) Each precinct shall be a contiguous, compact area having clearly defined and clearly observable boundaries coinciding with visible features readily distinguishable on the ground such as designated highways, roads, streets, rivers, or canals, except where the precinct boundary is coterminous with the boundary of a parish or an incorporated place when the boundaries of a single precinct contain the entire geographic area of the incorporated place.

(2) No precinct shall be wholly contained within the territorial boundaries of another precinct, except that a precinct which contains the entire geographical area of an incorporated place and in which the total number of registered voters at the last general election was less than two hundred fifty may be so contained.

(3) No precinct shall contain more than two thousand two hundred registered voters within its geo-

graphic boundaries. Within thirty days after the completion of each canvass, the registrar of voters of each parish shall notify the parish governing authority of every precinct in the parish which contains more than two thousand two hundred registered voters within its geographic boundaries. Within sixty days of such notification, the parish governing authority shall divide such precincts by a visible feature in accordance with R.S.18:532.1.

C. Each person governing authority shall provide and maintain at all times a suitable map showing the current geographical boundaries with designation of precincts and a word description of the precinct geographical boundaries. Each parish governing authority shall send a copy of each map, with description attached, to the registrar of voters, the secretary of state, and the commissioner of elections. The map may be composed of one or more sheets but each sheet shall not exceed three feet by four feet. The map shall include all existing roads, streets, railroads tracks, and drainage features but shall not include underground utility lines, land use and zoning symbols or shadings, symbols for vegetation cover, topographic contour lines, and similar items that obscure the basic street pattern and names. All features, names, titles, and symbols on the map shall be clearly shown and legible. The map sheet of the entire parish shall be on a scale of one inch equals one mile to one inch equals two miles. Map sheets of each incorporated place within the parish shall be on a scale of one inch equals eight hundred feet to one inch equals sixteen hundred feet. Each map sheet shall indicate the date of the base map or the date of last revision. Wherever the boundaries of a precinct or

incorporated place are coterminous, they shall be clearly indicated at such.

D. The parish governing authority shall also furnish, a map clearly indicating the boundaries of each parish governing authority district, school board district, special election district, representative district, and senate district.

E. (1) In complying with the provisions of this Section for the establishment of precincts and the prescription of their boundaries, each parish governing authority and registrar of voters shall coordinate with the secretary of the Senate and the clerk of the House of Representatives, or their designees, pursuant to their authority to submit a plan for census data for reapportionment under the provisions of Chapter 13 of Title 18 of the Louisiana Revised Statutes of 1950, and shall adopt or adjust precinct boundaries as may be necessary to comply with this Section.

(2) Each parish governing authority shall by ordinance adopt a proposal for the establishment or adjustment of precinct boundaries, in compliance with this Section, no later than June 15, 1986, provided that any establishment of a precinct or adjustment of a precinct boundary to comply with this Section shall be effective for the following purposes at the following times:

(a) Not later than January 1, 1990, for the purpose of establishing block boundaries for the 1990 federal decennial census.

(b) Not later than forty-five days prior to the opening date for qualifying as a candidate for any election held at the 1991 gubernatorial primary election, for all purposes. Within fifteen days after the adoption of the ordinance, the parish governing authority shall

send to the secretary and the clerk a certified copy of the ordinance and a copy of a map showing the new boundaries together with a written description of such boundaries.

(3) If any parish governing authority fails to comply with the provisions of this Section by June 15, 1986, the secretary of the Senate and the clerk of the House of Representatives, or their designees, shall immediately notify the attorney general of such noncompliance. The attorney general shall, upon receipt of such notice, in accordance with R.S. 18:537 institute an action against said governing authority to compel compliance with this Section.

(4) Notwithstanding the provisions of R.S. 18:532.1(A) and (B) or any other law to the contrary, the proposed precinct boundaries submitted to the United States Bureau of Census by a parish through the secretary of the Senate and the clerk of the House of Representatives or their designees, and approved by the Bureau of the Census as block boundaries for the 1990 Census shall be the precinct boundaries of any parish in which the parish governing authority has failed to adopt by ordinance on or before December 31, 1988 a proposal for the establishment or adjustment of precinct boundaries as required by this Section. The precinct boundaries established pursuant to the provisions of this Paragraph shall be effective as provided in R.S.18:532(E)(2).

Amended by Acts 1982, No.559, § 1, eff. July 22, 1982; Acts, 1985, No. 670, § 1, eff. July 16, 1985; Acts 1986, No. 286, § 1, eff. June 30, 1986; Acts 1988, No. 329, § 1; Acts 1988, No. 403, § 1, eff. July 10, 1988; Acts 1990, No. 629, § 1; Acts1992, No. 788, § 1, eff. Jan. 1, 1993; Acts 1992, No. 803, § 1.

* * * * *

§ 532.1 Changing precinct boundaries

A. The parish governing authority shall have authority, in accordance with this Section, to change the configuration, boundaries, or designation of an election precinct. Any change so determined shall be adopted by ordinance of the parish governing authority. Within fifteen days after adoption of the ordinance, the parish governing authority shall send to the secretary of state a certified copy of the ordinance and a copy of the map showing the new precinct boundaries and designations together with a written description of such boundaries. The parish governing authority shall comply with the provisions of R.S. 18:941 when changing precinct boundaries.

B. After June 15, 1986, a parish governing authority shall only change a precinct by dividing the precinct into two or more precincts except:

(1) Repealed by Acts 1990, No. 629, § 2.

(2) When in order to make it more convenient for voters to vote, or to facilitate the administration of the election process, or to accomplish reapportionment, it becomes necessary to consolidate all or part of a precinct with adjacent precincts, a part or parts may be consolidated but only when the parts that are joined are in the same voting district.

(3) Any establishment, division, or consolidation of precincts as provided in Paragraphs (1) and (2) herein shall be considered a change in precincts boundaries and shall be subject to the requirements of this Section.

C. (1) The parish governing authority shall comply with the provisions of R.S. 18:532(A), (B), and (C) when

changing any precinct boundary. Prior to January 1, 1993, any precinct boundary resulting from an establishment of a precinct or precincts or change in precinct boundary shall coincide with a visible feature which is a tabulation boundary depicted on United States Bureau of the Census maps prepared for the 1990 federal decennial census. After December 31, 1992, any precinct boundary resulting from an establishment of a precinct or precincts or change in precinct boundary shall coincide with a visible feature depicted on a base map that will be used by the United States Bureau of the Census to determine visible tabulation boundaries for the federal decennial census.

(2)(a) In determining features to be used as precinct boundaries, the parish governing authority shall consult with the secretary of the Senate and the clerk of the House of Representatives or their designees. The parish governing authority shall submit proposed changes in precinct boundaries to the secretary and the clerk or their designees on United States Bureau of the Census maps prepared for the 1990 federal decennial census and, where practicable, by electronic medium. No change in a precinct boundary may be made by the parish governing authority without prior review and approval by the secretary and the clerk or their designees, except as provided in this Subparagraph. Such review shall consist of a determination whether the proposed precinct change coincides with a visible feature depicted on a base map that will be used by the United States Bureau of the Census to determine visible tabulation boundaries for the federal decennial census.

(b) The secretary of the Senate and the clerk of the House of Representatives or their designees shall send

a report of the findings resulting from the review to the parish governing authority within forty-five days after the receipt of the proposed precinct changes. If the secretary of the Senate and the clerk of the House of Representatives or their designees fail to respond within forty-five days after the receipt of the proposed precinct changes, the proposed visible feature for precinct boundaries shall be deemed to be approved by the secretary of the Senate and the clerk of the House of Representatives or their designees.

(3)(a) In addition to the requirements of Paragraph (2) of this Subsection when the proposed precinct change involves a consolidation authorized by Paragraph B(2) of this Section, prior to adoption by ordinance, the parish governing authority shall submit proposed changes of the consolidation to the commissioner of elections. No change in a precinct consolidation may be made by the parish governing authority without prior review and approval by the commissioner of elections, except as provided in this Subparagraph. Such review shall consist of a determination whether the proposed consolidation of the precincts establishes a precinct or precincts where all parts of each proposed new precinct are in the same voting district.

(b) The commissioner of elections shall send a report of the findings resulting from the review to the parish governing authority within forty-five days after the receipt of the proposed precinct changes. If the commissioner of elections fails to respond within forty-five days after the receipt of the proposed precinct consolidations, the proposed consolidations shall be deemed to be approved by the commissioner of elections. No precinct shall be consolidated until all local governing authorities and the parish or city school board within

the area affected by the consolidation have completed redistricting and been precleared by the United States Department of Justice.

D. In accordance with R.S. 18:1903, on and after January 1, 1989, no election precinct shall be created, divided, abolished, or consolidated, or the boundaries thereof otherwise changed between January first of any year which last digit is nine and December thirty-first of any year which last digit is zero, unless ordered by a court of competent jurisdiction.

E. (1) A precinct shall not be changed, and no precinct shall be established or altered in any way as a result of annexation, alphabetical division by voter surname, or otherwise during the period commencing on the date the qualifying period opens and ending on the date of the general election.

(2) For an election which is exclusively for bonds, taxes, and other propositions or questions and for no other kind of election, a precinct shall not be changed during the period commencing on the forty-six day prior to the election and ending on the date of the election.

(3) No precinct change that is made prior to the date the qualifying period opens or, in the case of an election exclusively for bonds, taxes, and other propositions or questions, prior to the forty-sixth day before the election shall become effective for those elections, respectively, unless the information required in Subsection A herein, including a statement of no objection to the change from the United States attorney general, is received by the secretary of state prior to the date the qualifying period opens or prior to the forty-sixth day before the election, as the case may be.

F. Within fifteen days after the adoption of the ordinance as provided in the Section, the parish governing authority shall send to the secretary of the Senate and the clerk of the House of Representatives as well as the secretary of state and commissioner of elections a certified copy of the ordinance and a copy of a map showing the new precinct boundaries together with a written description of such boundaries.

G. Repealed by Acts 1993, No. 418, § 2, eff. Jan. 1, 1994.

H. The provisions of this Subsection shall supersede the provisions of R.S. 18:532.1(A), (B), and (D), and R.S. 18:1903, and any other law to the contrary.

(1) The precinct boundaries submitted to the United States Bureau of the Census by a parish through the secretary of the Senate and the clerk of the House of Representatives or their designees, and approved by the Bureau of the Census as block boundaries for the 1990 Census, shall not be divided, abolished, consolidated, or the boundaries otherwise changed until after December 31, 1992, unless ordered by a court of competent jurisdiction.

(2) Notwithstanding the provision contained in R.S. 18:532.1(H)(1), if a parish is unable to meet applicable state and federal guidelines in the creation of its reapportionment plan, such parish may divide a precinct into two or more precincts by a visible feature which is a census tabulation boundary during the time period of April 1, 1991 through May 15, 1991.

(a) Such parish shall include such precinct changes in its ordinance defining such reapportionment plan.

(b) A certified copy of the ordinance including any such precinct changes and reapportionment plan must

be sent to the secretary of state, the secretary of the Senate, the clerk of the House of Representatives, and the registrar of voters of the parish within fifteen days after the adoption of the ordinance.

(c) In the event that the Department of Justice objects to a parish reapportionment plan, such parish may divide a precinct into two or more precincts by a visible feature which is a census tabulation boundary in order to satisfy said objections of the Department of Justice.

(d) Such precincts shall not be divided, abolished, or consolidated or the boundaries otherwise changed during the time period of September 1, 1991 through December 31, 1992.

Added by Acts 1982, No. 559, § 1, eff. July 22, 1982. Amended by Acts 1985, No. 670,§ 1, eff. July 16, 1985; Acts 1986, No. 286, § 1, eff. June 30, 1986; Acts 1987, No. 831, § 1, eff. Jan. 1, 1988; Acts 1988, No. 329, § 1; Acts 1988, No. 909, § 1; Acts 1990, No. 288, § 1, eff. July 5, 1990; Acts 1990, No. 629, § 1, Acts 1992, No. 803, § 1; Acts 1993, No. 418, § 1 eff. Jan. 1, 1994.

WESTS LOUISIANA STATUTES ANNOTATED
LOUISIANA REVISED STATUTES (1995)
TITLE 18. LOUISIANA ELECTION CODE
CHAPTER 8-A. ELECTION EXPENSES

§ 1400.1 Election costs paid by secretary of state; governing authorities; reimbursement

A. The cost of ballots and election materials used in gubernatorial and congressional elections, whether or not a gubernatorial or congressional candidate appears on the ballot, shall be paid by the state from funds appropriated to the secretary of state for that purpose, except that when a local or municipal candidate or a local bond, debt, tax, proposition, or question also appears on the ballot, the state shall be required to pay one-half of the cost of ballots and election materials. The remaining one-half shall be pro-rated between the state and all local or municipal entities participating in such election. The pro-rata share of a local or municipal entity shall be determined by dividing the number of that entity's offices, propositions, or questions on the ballot by the total number of all offices, propositions, or questions on the ballot within that local jurisdiction.

B. (1) The cost of ballots and election materials used in any special election when any of the following appear on the ballot shall be paid by the state from funds appropriated to the secretary of state for that purpose:

(a) A state candidate, as defined in R.S. 18:452(1).

(b) A candidate for the state legislature.

(c) A candidate for judge of a judicial district court or juvenile court or a candidate for judge of

the criminal district or civil district court for Orleans Parish.

(d) A candidate for the office of district attorney.

(e) A proposed constitutional amendment.

(2) Notwithstanding the provisions of Paragraph (1), when a local or municipal candidate or a local bond, debt, tax, proposition, or question also appears on the ballot, the state shall be required to pay one-half of the cost of ballots and election materials. The remaining one-half shall be pro-rated between the state and all local or municipal entities participating in such election. The pro-rata share of a local or municipal entity shall be determined by dividing the number of that entity's offices, propositions, or questions, on the ballot within that local jurisdiction.

C. (1) The cost of ballots and election materials used in any election not provided for in Subsections A and B of this Section shall be paid by the appropriate governing authority that relates to the character of the office or the issue involved in such election.

(2) In any special election called only by a local governing authority or only by a parish or city school board solely for the purpose of voting on a proposition under Chapter 6-A of this Title, a fee of five dollars per certificate and two dollars per page shall be paid to the secretary of state for recording the process verbal as required by R.S. 18:1293.

(3) To administratively facilitate the payment of costs as provided in this Subsection, the secretary of state may initially pay such costs; however, the appropriate governing authority shall reimburse all such costs to the secretary of state, and all monies so

received by the secretary of state shall be remitted to the state treasurer. If more than one governing authority is involved in an election, the secretary of state shall prorate the reimbursable costs among the governing authorities as equitably as possible.

Added by Acts 1983, No. 681, § 1, eff. July 21, 1983. Amended by Acts 1986, No. 783; § 1, eff. July 10, 1986; Acts 1990, No. 107, § 1, eff. Jan. 1, 1991; Acts 1992, No. 963, § 1.

§ 1400.2. Election costs paid by commissioner of elections; governing authorities; reimbursement

A. The costs of publication of the location of polling places; of renting polling places; of drayage; of setting up voting machines; of compensating commissioners and deputy parish custodians; and of transmitting election returns for gubernatorial and elections, whether or not a gubernatorial or congressional candidate appears on the ballot, shall be paid by the state from funds appropriated to the commissioner of elections for that purpose except that when a local or municipal candidate or a local bond, debt, tax, proposition, or question also appears on the ballot, the state shall be required to pay one-half of such costs. The remaining one-half shall be pro-rated between the state and all local or municipal entities participating in such election. The pro-rata share of a local or municipal entity shall be determined by dividing the number of that entity's offices, propositions, or questions on the ballot by the total number of all offices, propositions, or questions on the ballot within that local jurisdiction.

B. (1) The cost of publication of the location of polling places; or renting places; of drayage; of setting up voting machines; of compensating commissioners

and deputy parish custodians; and of transmitting election returns for any special election when any of the following appear on the ballot shall be paid by the state from funds appropriated to the commissioner of elections for that purpose:

(a) A state candidate as defined in R.S. 18:452(1).

(b) A candidate for the state legislature.

(c) A candidate for judge of a judicial district court or juvenile court or a candidate for judge of the criminal district or civil district court for Orleans Parish.

(d) A candidate for the office of district attorney.

(e) A proposed constitutional amendment.

(2) Notwithstanding the provisions of Paragraph (1), when a local or municipal candidate or a local bond, debt, tax, proposition, or question also appears on the ballot, the state shall be required to pay one-half of such costs. The remaining one-half shall be pro-rated between the state and all local or municipal entities participating in such election. The pro-rata share of a local or municipal entity shall be determined by dividing the number of that entity's offices, propositions, or questions on the ballot by the total number of all offices, propositions, or questions on the ballot within that local jurisdiction.

C. (1) The cost of publication of the location of polling places; of renting polling places; of drayage: of setting up voting machines, which cost shall be ten dollars per machine; of compensating commissioners and deputy parish custodians; and of transmitting elec-

tion returns for any election not provided for in Subsections A and B of this Section shall be paid by the appropriate governing authority that relates to the character of office or issue involved in such election. Except as provided in Paragraph (2) of this Subsection, if more than one governing authority is involved in an election, a statement of such expenses shall be transmitted to each governing authority involved in the election and payment thereof shall be prorated among the governing authorities as equitably as possible.

(2) To administratively facilitate the payment of costs with respect to elections as provided in this Subsection, the commissioner of elections may initially pay such costs; however, the appropriate governing authority shall reimburse all such costs to the commissioner of elections who shall remit all such funds to the state treasurer. If more than one governing authority is involved in an election, the commissioner of elections shall prorate its reimbursable costs among the governing authorities as equitably as possible.

Added by Acts 1983, No. 681, § 1, eff. July 21, 1983. Amended by Acts 1986, No. 426, § 1; Acts 1986, No. 783, § 1, eff. July 10, 1986; Acts 1988, No. 909, § 1, eff. Jan. 1, 1989; Acts 1990, No. 107, S 1, eff. Jan. 1, 1991; Acts 1992, No. 963, § 1.

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§ 1400.3 Election expenses incurred by clerks of court and registrars of voters; payment by commissioner of elections; payment by governing authorities

A. Election expenses incurred by clerk of court and registrars of voters for gubernatorial and congressional elections, whether or not a gubernatorial or congressional candidate appears on the ballot, shall be paid by the state from funds appropriated to the commissioner of elections for that purpose, except that when a local or municipal candidate or a local bond, debt, tax, proposition, or question also appears on the ballot, the state shall be required to pay one-half of such costs. The remaining one-half shall be pro-rated between the state and all local or municipal entities participating in such election. The pro-rata share of a local or municipal entity shall be determined by dividing the number of that entity's offices, propositions, or questions on the ballot by the total number of all offices, propositions, or questions on the ballot within that local jurisdiction.

B. (1) Election expenses incurred by clerks of court and registrars of voters for any special election when any of the following appear on the ballot shall be paid by the state from funds appropriated to the commissioner of elections for that purpose:

(a) A state candidate, as defined in R.S. 18:452(1).

(b) A candidate for the state legislature.

(c) A candidate for judge of a judicial district court or juvenile court or a candidate for judge of the criminal district or civil district court for Orleans Parish.

(d) A candidate for the office of district attorney.

(e) A propose constitutional amendment.

(2) Notwithstanding the provisions of Paragraph (1), when a local or municipal candidate or a local bond, debt, tax, proposition, or question also appears on the ballot, the state shall be required to pay one-half of such costs. The remaining one-half shall be pro-rated between the state and all local or municipal entities participating in such election. The pro-rata share of local or municipal entity shall be determined by dividing the number of that entity's offices, propositions, or questions on the ballot by the total number of all offices, propositions, or questions on the ballot within that local jurisdiction.

(C)(1) Election expenses incurred by clerks of court and registrars of voters for any election not provided for in Subsections A and B of this Section shall be paid by the appropriate governing authority that relates to the character of office or issue involved in such election. Except as provided in Paragraph (2) of this Subsection, if more than one governing authority is involved in an election, a statement of such expenses shall be transmitted to each governing authority and payment thereof shall be prorated among the governing authorities as equitably as possible.

(2) To administratively facilitate the payment of costs with respect to elections as provided in this Subsection, the commissioner of elections may initially pay such costs; however, the appropriate governing authority shall reimburse all such costs to the commissioner of elections, who shall remit all such funds to the state treasurer. If more than one governing authority is

involved in an election, the commissioner of elections shall prorate its reimbursable costs among the governing authorities as equitably as possible.

(D) For the purposes of this Section, "election expenses incurred by registrars of voters" is defined and limited to the following:

(1) Expenses incurred by a registrar of voters to pay for one or more temporary part-time clerical employees to perform election duties and responsibilities associated with his office as provided in this Title. Such employees shall be paid at an hourly rate established by the registrar at not to exceed that of a Voter Registration Specialist in the General Schedule at the entry level as specified in the classification and pay plan of the Louisiana Department of Civil Service.

(2) Expenses incurred by a registrar of voters to pay a permanent employee below the level of chief deputy and confidential assistant to perform election duties and responsibilities associated with his office during other than normal hours of operation of his office.

(3) Expenses of an extraordinary nature incurred by a registrar of voters for an election which have received prior approval of the commissioner of elections.

(E) For the purpose of this Section, "election expenses incurred by clerks of court" is defined and limited to the following:

(1) Actual expense incurred by a clerk of court to publish notices required by law in the official journal of the parish and, to insure maximum coverage, in any other journal of the parish or political subdivision thereof. Information contained in such notices shall be limited to that required by law. The commissioner of

elections shall prescribed the size of such notices which shall be uniform throughout the state.

(2) Itemized expenses incurred by a clerk of court to conduct the general courses of instruction for commissioners as provide in R.S. 18:431(A) and the course of instruction for commissioners-in-charge as provided in R.S. 18:433(A).

(3)(a) Documented expenses incurred by a clerk of court to perform or fulfill election duties imposed by law. For the purpose of this Paragraph, such expenses shall include the following:

(i) Expenses for postage and office supplies used in connection with an election or used to fulfill an election duty imposed by law.

(ii) Expenses for rental space and instructional paraphernalia to conduct schools of instruction for commissioners and commissioners-in-charge.

(iii) Expenses for personnel used in connection with an election or used to fulfill an election duty imposed by law. Such expenses shall be itemized and reimbursement shall be authorized only for work not performed during regular office hours of the clerk of court.

(iv) Incidental expenses incurred in conducting the general courses of instruction for commissioners and the course of instruction for commissioners-in-charge. Reimbursement for such expenses shall be limited to one hundred dollars per general commissioner school and one hundred dollars for the commissioner-in-charge school. Maximum reimbursement to a clerk of court for conducting such schools shall be limited to three hundred dollars per calendar year and all reimbursements shall be deposited in the general fund of the clerk of court.

(b) The commissioner of elections shall establish rules and regulations governing reimbursement for expenses set forth herein and may establish rules and regulations to add other categories of reimbursable expenses. All reimbursements shall be deposited in the general fund of the clerk.

(4) Expenses of an extraordinary nature incurred by a clerk of court for an election which have received prior approval of the commissioner of elections.

Added by Acts 1983, No. 681, § 1, eff. July 21, 1983. Amended by Acts 1986, No. 669, § 1; Acts 1986, No. 783, § 1, eff. July 10, 1986, Acts 1988, No. 909, § 1, eff. Jan. 1, 1989; Acts 1990, No. 107, § 1, eff. Jan. 1, 1991; Acts 1992, No. 963, § 1.

WEST'S LOUISIANA STATUTES ANNOTATED
LOUISIANA REVISED STATUTES
TITLE 18. LOUISIANA ELECTION CODE
CHAPTER 5. PRIMARY AND GENERAL ELECTIONS
PART VII. FILLING OF VACANCIES
SUBPART C. LOCAL AND MUNICIPAL OFFICES

§ 602. Vacancies in certain local and municipal offices; exceptions

A. When a vacancy occurs in the office of a member of a parish or municipal governing authority or a combination thereof, a mayor, or any other local or municipal office, except an office covered by Subsections B and C hereof and except the office of judge, state legislator, or marshal of a city or municipal court, and the office is filled by election wholly within the boundaries of a local governmental subdivision, the governing authority of the local governmental subdivision where the vacancy occurs shall, within ten days, appoint a person to fill the vacancy who meets the qualifications of the office. The presiding officer of the governing authority shall not be required to vote on such an appointment to be made by the governing authority of a local governmental subdivision to be made by the governing authority of a local governmental subdivision unless a tie vote occurs thereon, in which case he shall vote to break the tie; however, in no case shall the presiding officer vote more than once on the appointment.

B. When a vacancy occurs in the membership of a city or parish school board, the remaining members of the board shall, within ten days, declare that the vacancy has occurred and proceed to appoint a person who meets the qualifications of the office to fill the vacancy. For the purposes of this Subsection, in addi-

tion to the definition of "vacancy" provided in R.S. 18:581(1), a "vacancy" in a city or parish school board office shall be deemed to have occurred when, in the case of a city school board, a member's residence no longer lies within the jurisdiction of the board or when, in the case of a parish school board, a member changes his domicile from the district he represents or, if elected after reapportionment, is domiciled outside the district he represents at the time he is sworn into office, any declaration of retention of domicile to the contrary notwithstanding.

C. When a vacancy occurs in any of the following offices, the duties of the office shall be assumed by the person hereinafter designated: (1) district attorney, by the first assistant; (2) clerk of a district court, by the chief deputy; (3) coroner, by the chief deputy; (4) sheriff, by the chief criminal deputy, except that in a parish that has both a civil sheriff and a criminal sheriff, the civil sheriff by the chief civil deputy, and the criminal sheriff, by the chief criminal deputy, respectively; and (5) tax assessor, by the chief deputy assessor, except that in any parish having a board of assessors, that board shall, within ten days, appoint an interim assessor. If there is no such person to assume the duties when the vacancy occurs, the governing authority or authorities of the parish or parishes affected shall, within ten days, appoint a person having the qualifications of the office to assume the duties of the office.

D. If a vacancy is not filled within the time specified in Subsections A, B, or C herein, the governor shall fill the vacancy.

E. (1)(a) If the unexpired term of an office covered by Subsection A, B, or C above is one year or less, the

person appointed to fill the vacancy or designated to assume the duties of the office shall serve for the remainder of the unexpired term.

(b) If any member of a parish or city school board is removed or suspended from office pursuant to the provisions of R.S. 42:1411, except in the parish of Jefferson, the person appointed to fill the vacancy or to perform the official acts, duties, and functions of that office during the period of suspension shall be eligible in the next election as a candidate for the office to which he is appointed.

(2)(a) If the unexpired term exceeds one year, the governing authority of the local government subdivision in which the vacancy occurs, or the school board when the vacancy occurs in its membership, or the governor when a vacancy occurs in the office of district attorney or in an office for which there is not a single governing authority or as provided in Subsection F, within ten days after the vacancy and shall specify in the proclamation, in accordance with R.S. 18:402, the dates on which the primary and general elections shall be held and, in accordance with R.S. 18:467, 467.1, and 468, the dates of the qualifying period for candidates in the special election. In selecting the dates for such special elections, the governing authority or school board as the case may be, may choose a gubernatorial or congressional election date, if such date is available within a year of the occurrence of the vacancy or may select an election date in accordance with R.S. 18:402. In the case in which the governor shall first choose a gubernatorial or congressional election date. If no such date is available within a year of the occurrence of the vacancy, the governor shall then select an election date

in accordance with R.S. 18:402. If the governing authority or school board fails to issue the proclamation.

(b) Immediately thereafter the governing authority, the school board, or the governor, as the case may be, shall publish the proclamation in the official journal of each parish in which the election is to be held.

(c) Within twenty-four hours after issuing the proclamation, the authority or authorities ordering the special election shall send a copy of the proclamation, by certified or registered mail, to the clerk of the district court for the parish in which the vacancy occurred. If the vacancy occurred in the parish of Orleans, the copy of the proclamation shall be so mailed to the clerk of the criminal district court. If the vacancy occurs in an office which affects more than one parish, a copy of the proclamation shall at the time be so mailed to the clerk of each of the parishes. A copy of the proclamation also shall be mailed to the secretary of state at the same time and in the same manner.

(d) Within twenty-four hours after he receives the copy, the secretary of state shall notify all election officials having any duty to perform in connection with a special election to fill such vacancy, including the parish boards of election supervisors for the parish or parishes in which the vacancy occurred.

(3) The special election shall be held, without the necessity of a call by the governor, except in the case of a vacancy in the office of district attorney. When a special election is required, the appointee or person designated to assume the duties of the office shall serve only until the successor is elected and takes office.

(4) If the unexpired term of a municipal office covered by Subsection A is one year or more, but the

vacancy occurs within one year of the regular municipal primary election for that office, no special election will be called and the appointee shall serve for the remainder of the term of office.

F. Whenever multiple vacancies in a local or municipal governing authority or in a school board covered by Subsection A or B of this Section reduce the membership of such governing authority or board below the number of total members required to constitute a quorum to conduct official business, the remaining members shall immediately inform the governor of the existence of the vacancies. Within ten days after he receives this notice, the governor shall make appointments to fill all the vacancies and shall issue a proclamation calling special elections to fill such vacancies if special elections are required under the provisions of this Section.

G. The provisions of this Section shall apply to all local governmental subdivisions, including those operating under the provisions of a legislative charter, but shall not apply where the filling of a vacancy otherwise is provided for by the constitution or by the home rule charter or home rule plan of government of the affected local governmental subdivision. Such constitutional home rule plan provisions shall govern the filing of the vacancies.

WEST'S LOUISIANA STATUTES ANNOTATED
LOUISIANA REVISED STATUTES
TITLE 17. EDUCATION
CHAPTER 1. GENERAL SCHOOL LAW
PART II. PARISH SCHOOL BOARDS
SUBPART A-1. REAPPORTIONMENT AND REORGANIZATION

§ 71.5. Reapportionment; reorganization

By resolution adopted pursuant to R.S. 17:71.4, each school board shall reapportion itself based upon each federal decennial census, or a special census as authorized by R.S. 17:71.3(A). Such resolution shall be adopted on or before December thirty-first of the second year following the year in which the population of this state is reported to the president of the United States for each decennial census, unless an election of the members of the school board is to take place in the second year after reporting of the decennial census, in which case, the resolution is to be adopted no later than March first of the second year after reporting of the decennial census. Reapportionment shall not reduce the term of any member who is then seated and elected. Each board shall submit its reapportionment plan to the United States Department of Justice no later than one hundred twenty days after adoption of the resolution pursuant to R.S. 17:71.4, as required by the Voting Rights Act of 1965, as amended, Title 42, Section 1973(a) of the United States Code and shall also submit a copy of such resolution by certified mail to the secretary of state.

UNITED STATES CODE ANNOTATED
TITLE 13. CENSUS
CHAPTER 5—CENSUSES
SUBCHAPTER II–POPULATION, HOUSING, AND UNEMPLOYMENT

§ 141. Population and other census information

(b) The tabulation of total population by States under subsection (a) of this section as required for the apportionment of Representatives ~~in~~ Congress among the several States shall be completed within 9 months after the census date and reported by the Secretary to the President of the United States.

Supreme Court Of The United States

No. 98-405

JANET RENO, ATTORNEY GENERAL, APPELLANT

v.

BOSSIER PARISH SCHOOL BOARD

APPEAL from the United States District Court for the District of Columbia.

The statement of jurisdiction in this case having been submitted and considered by the Court, in this case probable jurisdiction is noted. This case is consolidated with No. 98-406, *George Price, et al.*, v. *Bossier Parish School Board* and a total of one hour is allotted for oral argument. The brief of the appellant is to be filed with the Clerk and served upon opposing counsel on or before 3 p.m., Friday, March 5, 1999. The brief of appellees is to be filed with the Clerk and served upon opposing counsel on or before 3 p.m., Friday, April 2, 1999. Reply briefs, if any, are to be filed with the Clerk and served upon opposing counsel on or before 3 p.m., Friday, April 16, 1999. Rule 29.2 does not apply.

January 22, 1999

Supreme Court Of The United States

No. 98-406

GEORGE PRICE, ET AL., APPELLANTS

v.

BOSSIER PARISH SCHOOL BOARD

APPEAL from the United States District Court for the District of Columbia.

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January 22, 1999